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CONSTITUTION

JEFFERSON'S MANUAL

AND

RULES OF THE HOUSE OF REPRESENTATIVES

OF THE UNITED STATES

ONE HUNDRED FIRST CONGRESS

Wm. HOLMES BROWN

PARLIAMENTARIAN

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HOUSE RESOLUTION 605

In the House of Representatives, U.S.,
October 21, 1988.

Resolved, That a revised edition of the Rules and Manual of the House of Representatives for the One Hundred First Congress be printed as a House document, and that two thousand additional copies shall be printed and bound for the use of the House of Representatives, of which seven hundred copies shall be bound in leather with thumb index and delivered as may be directed by the Parliamentarian of the House for distribution to officers and Members of Congress.

Attest:

Donnald K. Anderson,
Clerk.

PREFACE

The House Rules and Manual contains the fundamental source material for parliamentary procedure used in the House of Representatives: The Constitution of the United States; applicable provisions of Jefferson's Manual; rules of the House (as they exist as of the date of this preface); provisions of law and resolutions having the force of a rule of the House; and pertinent decisions of the Speakers and other presiding officers of the House and Committee of the Whole which have interpreted the rules and other procedural authority used in the House of Representatives.

The rules for the One Hundred First Congress were adopted on January 3, 1989, when the House agreed to House Resolution 5. This resolution reinstated the rules of the One Hundredth Congress with amendments to Rules I, X, XI,. XIV, XV, XXVIII, XXXVI, and XLVIII. These changes, several of which are merely conforming and technical, are discussed in the annotations following those particular rules. The more substantive are summarized here.

(1) The Speaker's authority to postpone record votes on certain questions, carried in Rule I, clause 5(b), was broadened to permit the postponement, for up to two legislative days, of votes on motions to instruct the House managers at a conference who have been in conference for over twenty days without having filed a report.

(2) Debate time on motions to instruct managers, heretofore controlled under the hour rule by the offeror of the motion, will henceforth be divided between the majority and the minority, or divided three ways if the majority and the minority are united in favor of the motion, thus assuring an opponent of the motion twenty minutes of the hour. Rule XXVIII was further amended to require advance notice of any motion to discharge or instruct managers who have been appointed for twenty or more days.

(3) Rule XXXVI is completely revised to institute a new policy regarding the preservation and availability of noncurrent House records. This change in effect codifies House policy regarding public availability of House and committee records transferred to the National Archives

and clarifies the authority of committees and the House to make special rules regarding certain classes and types of records.

Other changes address closed captioning of House television coverage (Rule I), the Office of Historian (Rule I), the composition of the membership of the Committee on the Budget (Rule X), committee meetings during joint sessions and joint meetings of the House and under the five-minute rule (Rule XI), associate staff responsibilities and committee staff pay (Rule XI), and the size of the Permanent Select Committee on Intelligence (Rule XLVIII).

This volume of the Manual represents the first attempt to edit and update utilizing computer technology. In addition to those in the Office of the Parliamentarian who have assisted in this effort, I wish to thank the personnel at the Government Printing Office and House Information Systems who have created the data base upon which we have constructed this edition. Now that we have stepped into the new world of computer printing, future editions of this work should be more easily readied for printing.

Charles Johnson, Tom Duncan, John Sullivan and Muftiah Koach were all instrumental in revising and updating the annotations in this edition. Gay Topper meticulously read manuscripts and supplied proper references. All of them devoted their hours and ingenuity to this project.

WM. HOLMES BROWN.

MAY 5, 1989.

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Every Tuesday:
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CONSTITUTION

WE THE PEOPLE of the United States, in Order to form a more perfect Union, establish Justice, insure domestic Tranquility, provide for the common defence, promote the general Welfare, and secure the Blessings of Liberty to ourselves and our Posterity, do ordain and establish this Constitution for the United States of America.

§ 1. The preamble.

The First Continental Congress met in Philadelphia in September of 1774 and adopted the Declaration and Resolves of the First Continental Congress, embodying rights and principles later to be incorporated into the Constitution of the United States. The Second Continental Congress adopted in November of 1777 the Articles of Confederation, which the States approved in July, 1778. Upon recommendation of the Continental Congress, a convention of State representatives met in May, 1787 to revise the Articles of Confederation and reported to the Continental Congress in September a new Constitution, which the Congress submitted to the States for ratification. Nine States, as required by the Constitution for its establishment, had ratified by June 21, 1788, and eleven States had ratified by July 26, 1788. The Continental Congress adopted a resolution on September 13, 1788 putting the new Constitution into effect; the First Congress of the United States convened on March 4, 1789, and George Washington was inaugurated as the first President on April 30, 1789.

§ 2. Formation of the Constitution.

ARTICLE I.

§ 3. Legislative powers vested in Congress.

SECTION 1. All legislative Powers herein granted shall be vested in a Congress of the United States, which shall consist of a Senate and House of Representatives.

§ 4. Power to investigate.

The power to legislate includes the power to conduct inquiries and investigations. See Kilbourn *v.* Thompson, 103 U.S. 168 (1881); McGrain *v.* Daugherty, 273 U.S. 135 (1927); Watkins *v.* United States, 354 U.S. 178 (1957); Barenblatt *v.* United States, 360 U.S. 109 (1959). For the power of the House to punish for contempt in the course of investigations, see § 293, infra.

§ 5. Members chosen by the people of the States every second year.

SECTION 2.[1] The House of Representatives shall be composed of Members chosen every second Year by the People of the several States, * * *.

This clause requires election by the people and State authority may not determine a tie by lot (I, 775).

The phrase "by the people of the several States" means that as nearly as practicable one person's vote in a congressional election is to be worth as much as another's. Wesberry *v.* Sanders, 376 U.S. 1 (1964); Kirkpatrick *v.* Preisler, 385 U.S. 450 (1967). 2 U.S.C. 2a mandates apportionment of Representatives based upon population, and 2 U.S.C. 2c requires the establishment by the States of single-Member congressional districts. For elections generally, see Deschler's Precedents Ch. 8.

§ 6. Term of a Congress.

The term of a Congress, before the ratification of the twentieth amendment to the Constitution, began on the 4th of March of the odd numbered years and extended through two years. This resulted from the action of the Continental Congress on September 13, 1788, in declaring, on authority conferred by the Federal Convention, "the first Wednesday in March next" to be "the time for commencing proceedings under the said Constitution." This date was the 4th of March, 1789. And soon after the first Congress assembled a joint committee determined that the terms of Representatives and Senators of the first class commenced on that day, and must necessarily terminate with the 3d of March, 1791 (I, 3). Under the twentieth amendment to the Constitution the terms of Representatives and Senators begin on the 3d of January of the odd-numbered years, regardless of when Congress actually convenes. By a practice having the force of common law, the House meets at 12 m. when no other hour is fixed (I. 4, 210). In the later practice a resolution fixing the daily hour of meeting at 12 o'clock meridian or some other hour is agreed to at the beginning of each session.

Prior to adoption of the twentieth amendment, the legislative day of March 3 extended to 12 m. on March 4 (V, 6694–6697) and, unless earlier adjourned, the Speaker could at that time declare the House adjourned sine die, without motion or vote, even to the point of suspending a roll call then in progress (V, 6715–6718).

The Legislative Reorganization Act of 1970 (84 Stat. 1140) provides that unless Congress otherwise specifies the two Houses shall adjourn sine die not later than the last day in July. This requirement is not applicable, under the terms of that Act, where a state of war exists pursuant to a Congressional declaration or where, in an odd-numbered (nonelection) year, the Congress has agreed to adjourn for the month preceding Labor Day. (See § 947, infra, for other information concerning this provision).

§ 7. Electors of the House of Representatives.

* * * and the Electors in each State shall have the Qualifications requisite for Electors of the most numerous Branch of the State Legislature.

The House, in the decision of an election case, has rejected votes cast by persons not naturalized citizens of the United States, although they were entitled to vote under the statutes of a State (I, 811); but where an act of Congress had provided that a certain class of persons should be deprived of citizenship, a question arose over the proposed rejection of their votes in a State wherein citizenship in the United States was not a qualification of the elector (I, 451). In an exceptional case the House rejected votes cast by persons lately in armed resistance to the Government, although by the law of the State they were qualified voters (I, 448); but later, the House declined to find persons disqualified as voters because they had formerly borne arms against the Government (II, 879).

§ 8. Decisions of the court.

The power of the States to set qualifications for electors is not unlimited, being subject to the fifteenth, nineteenth, twenty-fourth, and twenty-sixth amendments, and to the equal protection clause of the United States Constitution. Carrington *v.* Rash, 380 U.S. 89 (1965); Kramer *v.* Union Free School District, 395 U.S. 621 (1969).

Congress has some power in setting qualifications for electors, as in protecting the right to vote and lowering the minimum age for electors in congressional elections. Katzenbach *v.* Morgan, 384 U.S. 641 (1966); Oregon *v.* Mitchell, 400 U.S. 112 (1970).

§ 9. Age as a qualification of the Representative.

[2] No Person shall be a Representative who shall not have attained to the Age of twenty five Years, * * *.

A Member-elect not being of the required age, was not enrolled by the Clerk and he did not take the oath until he had reached the required age (I, 418).

§ 10. Citizenship as a qualification of the Member.

*** * * and been seven Years a Citizen of the United States, * * *.**

Henry Ellenbogen, Pa., had not been a citizen for seven years when elected to the 73d Congress, nor when the term commenced on March 4, 1933. He was sworn at the beginning of the 2d session on January 3, 1934 (when a citizen for seven and one-half years); see H. Rept. 1431 and H. Res. 370, 73d Cong. A native of South Carolina who had been abroad during the Revolution and on his return had not resided in the country seven years, was held to be qualified as a citizen (I, 420). A woman who forfeited her citizenship through marriage to a foreign subject and later resumed it through naturalization less than seven years prior to her election, was held to fulfill the constitutional requirement as to citizenship and entitled to a seat in the House (VI, 184). A Member who had long been a resident of the country, but who could not produce either the record of the court nor his final naturalization papers, was nevertheless retained in his seat by the House (I, 424).

§ 11. Inhabitancy as a qualification of the Member.

*** * * and who shall not, when elected, be an Inhabitant of that State in which he shall be chosen.**

The meaning of the word "inhabitant" and its relation to citizenship has been discussed (I, 366, 434; VI, 174), and the House has held that a mere sojourner in a State was not qualified as an inhabitant (I, 369), but a contestant was found to be an actual inhabitant of the State although for sufficient reason his family resided in another State (II, 1091). Residence abroad in the service of the Government does not destroy inhabitancy as understood under the Constitution (I, 433). One holding an office and residing with his family for a series of years in the District of Columbia exclusively was held disqualified to sit as a Member from the State of his citizenship (I, 434); and one who had his business and a residence in the District of Columbia and had no business or residence in Virginia was held ineligible to a seat from that State (I, 436). One who had a home in the District of Columbia, and had inhabited another home in Maryland a brief period before his election, but had never been a citizen of any other State, was held to be qualified (I, 432). Also a Member who had resided a portion of a year in the District of Columbia, but who had a home in the State of his citizenship and was actually living there at the time of the election, was held to be qualified (I, 435). In the Updike *v.* Ludlow case, 71st Congress, it was decided that residence in the District of Columbia for years as a newspaper correspondent and maintenance there of church membership were not considered to outweigh payment of poll and income taxes, ownership of real estate, and a record for consistent voting in the district from which elected (VI, 55), and in the same case excuse from jury duty in the District of Columbia on a plea of citizenship in the State from which elected and exercise of incidental rights of such citizenship, were accepted as evidence of inhabitancy (VI, 55).

§ 12. Qualifications other than those specified by the Constitution.

It has been decided by the House and Senate that no State may add to the qualifications prescribed by the Constitution (I, 414–416, 632). Whether Congress may by law establish qualifications other than those prescribed by the Constitution has been the subject of much discussion (I, 449, 451, 457, 458, 478); but in a case wherein a statute declared a Senator convicted of a certain offense "forever thereafter incapable of holding any office of honor, trust, or profit under the Government of the United States," the Supreme Court expressed the opinion that the final judgment of conviction did not operate, ipso facto, to vacate the seat or compel the Senate to expel or regard the Senator as expelled by force alone of the judgment (II, 1282). Whether the House or Senate alone may set up qualifications other than those of the Constitution has also been a subject often discussed (I, 414, 415, 443, 457, 458, 469, 481, 484). The Senate has always declined to act on the supposition that it had such a power (I, 443, 483), and during the stress of civil war the House of Representatives declined to exercise the power, even under circumstances of great provocation (I, 449, 465). But later, in one instance, the House excluded a Member-elect on the principal argument that it might itself prescribe a qualification not specified in the Constitution (I, 477). The matter was extensively debated in the 90th Congress in connection with the consideration of resolutions relating to the seating of Representative-elect Adam C. Powell of New York (see debate on House Resolutions 1 and 278, 90th Congress).

The exclusion of Mr. Powell was the subject of litigation reaching the Supreme Court of the United States. In Powell *v.* McCormack, 395 U.S. 486 (1969), the Court found that the power of Congress to judge the qualifications of its Members was limited to an examination of the express qualifications stated in the Constitution. For qualifications generally, see Deschler's Precedents Ch. 7, §§ 9–14.

For expulsion of seated Members, which requires a two-thirds vote rather than a majority vote, see article I, section 5, clause 2 (§ 62, infra).

§ 13. Minority candidate not seated when returned Member is disqualified.

Both Houses of Congress have decided, when a Member-elect is found to be disqualified, that the person receiving the next highest number of votes is not entitled to the seat (I, 323, 326, 450, 463, 469; VI, 58, 59), even in a case wherein seasonable notice of the disqualification was given to the electors (I, 460). In the event of the death of a Member-elect, the candidate receiving the next highest number of votes is not entitled to the seat (VI, 152).

§ 14. The old provision for apportionment of Representatives and direct taxes.

[3] [Representatives and direct Taxes shall be apportioned among the several States which may be included within this Union, according to their respective Numbers, which shall be determined by adding to the whole Number of free Persons, including those bound to Service for a Term of Years, and excluding Indians not taxed, three fifths of all other Persons.] * * *

The part of this clause relating to the mode of apportionment of Representatives was changed after the Civil War by section 2 of the fourteenth amendment and as to taxes on incomes without apportionment, by the sixteenth amendment.

§ 15. Census as a basis of apportionment.

* * * The actual Enumeration shall be made within three Years after the first Meeting of the Congress of the United States, and within every subsequent Term of ten Years, in such Manner as they shall by Law direct. The Number of Representatives shall not exceed one for every thirty Thousand, but each State shall have at Least one Representative; and until such enumeration shall be made, the State of New Hampshire shall be entitled to chuse three, Massachusetts eight, Rhode-Island and Providence Plantations one, Connecticut five, New York six, New Jersey four, Pennsylvania eight, Delaware one, Maryland

six, Virginia ten, North Carolina five, South Carolina five, and Georgia three.

The census has been taken decennially since 1790, and, with the exception of 1920, was followed each time by reapportionment. In the First Congress the House had 65 Members; increased after each census, except that of 1840, until 435 was reached in 1913 (VI, 39, 40). The Act of June 18, 1929 (46 Stat. 26), as amended by the Act of November 15, 1941 (55 Stat. 761), provides for reapportionment of the existing number (435) among the States following each new census (VI, 41–43; see 2 U.S.C. 2a). Membership was temporarily increased to 436, then to 437, upon admission of Alaska (72 Stat. 345) and Hawaii (73 Stat. 8), but returned to 435 on January 3, 1963, the effective date of the reapportionment under the 18th Decennial census.

Under the later but not the earlier practice, bills relating to the census and apportionment are not privileged for consideration (I, 305–308; VI, 48, VII, 889; April 8, 1926, p. 7147).

Decisions of the Supreme Court of the United States:

§ 16. Decisions of the court.

Dred Scott *v.* Sandford, 19 Howard, 393; Veazie Bank *v.* Fenno, 8 Wall., 533; Scholey *v.* Rew, 23 Wall., 331; De Treville *v.* Smalls, 98 U.S., 517; Gibbons *v.* District of Columbia, 116 U.S., 404; Pollock *v.* Farmers Loan & Trust Co. (Income Tax case), 157 U.S. 429; Pollock *v.* Farmers' Loan & Trust Co. (Rehearing), 158 U.S. 601; Thomas *v.* United States, 192 U.S., 363; Flint *v.* Stone Tracy Co., 220 U.S. 107; Corporation Tax cases, 220 U.S., 107; Eisner *v.* Macomber, 252 U.S., 189; New York Trust Co. *v.* Eisner, 256 U.S., 345.

§ 17. Writs for elections to vacancies in representation.

4 When vacancies happen in the Representation from any State, the Executive Authority thereof shall issue Writs of Election to fill such Vacancies.

Vacancies are caused by death, resignation, declination, withdrawal, or by action of the House in declaring a vacancy as existing or causing one by expulsion.

§ 18. Vacancy from death.

It was long the practice to notify the executive of the State when a vacancy was caused by the death of a Member during a session (II, 1198–1202); but since improvements in transportation have made it possible for deceased Members to be buried at their homes it has been the practice for State authorities to take cognizance of the vacancies without notice. When a Member dies while not in attendance on the House or during a recess the House is sufficiently informed of the vacancy by the credentials of his successor, when they set forth the fact of the death (I, 568). The death of a Member-elect creates a vacancy, although no certificate may have been awarded (I, 323), and in such a case the candidate having the next highest number of votes may not receive the credentials (I, 323; VI 152). A Member whose seat was contested dying, the House did not admit a claimant with credentials until contestant's claim was settled (I, 326); where a contestant died after a report in his favor, the House unseated the returned Member and declared the seat vacant (II, 965), and in a later case the contestant having died, the committee did not recommend to the House a resolution it had agreed to declaring he had not been elected (VI, 112). In the 93rd Congress, where two Members-elect had been passengers on a missing aircraft and were presumed dead, the Speaker lay before the House documentary evidence of the presumptive death of one Member-elect and the declaration of a vacancy by the Governor, as-well-as evidence that the status of the other Member-elect had not been officially determined by State authority. The House then adopted a privileged resolution declaring vacant the seat of the latter Member-elect to enable the Governor of that State to call a special election (Jan. 3, 1973, p. 15–16). Further discussion, § 23, infra.

§ 19. Vacancy from resignation.

In recent practice the Member frequently informs the House by letter that his resignation has been sent to the State executive (II, 1167–1176) and this is satisfactory evidence of the resignation (I, 567) but Members have resigned by letter to the House alone, it being presumed that the Member would also notify his Governor (VI, 226), and where a Member resigned by letter to the House the Speaker was authorized to notify the Governor (Nov. 27, 1944, p. 8450; July 12, 1957, p. 11536; Sept. 1, 1976, p. 28887). Where a Member does not inform the House the State executive may do so (II, 1193, 1194; VI, 232). But sometimes the House learns of a Member's resignation only by means of the credentials of his successor (II, 1195, 1356). Where the fact of a Member's resignation has not appeared either from the credentials of his successor or otherwise, the Clerk has been ordered to make inquiry (II, 1209), or the House has ascertained the vacancy from information given by other Members (II, 1208). It has been established that a Member or Senator may resign, appointing a future date for his resignation to take effect, and until the arrival of the date may participate in the proceedings (II, 1220–1225, 1228, 1229; VI, 227, 228). In one case a Member who had resigned was not permitted by the House to withdraw the resignation (II, 1213), but the House permitted it later in another case (VI, 229). Acceptance of the resignation of a Member of the House is unnecessary (VI, 65, 226), and the refusal of a Governor to accept a resignation cannot operate to continue membership in the House (VI, 65). Only in a single exceptional case has the House taken action in the direction of accepting a resignation (II, 1214). Sometimes Members who have resigned have been reelected to the same House and taken seats (II, 1210, 1212, 1256; Jan. 28, 1965 and June 16, 1965, pp. 1452 and 13774; Jan. 6, 1983 and Feb. 22, 1983, pp. 114 and

2575). A Member who has not taken his seat resigned (II, 1231). A letter of resignation is presented as privileged (II, 1167–1176); but a resolution to permit a Member to withdraw his resignation was not so treated (II, 1213). The Speaker having been elected Vice President and a Representative of the succeeding Congress at the same election, transmitted to the Governor of his State his resignation as a Member-elect (VI, 230, 453). A Member of the House having been nominated and confirmed as Vice President pursuant to the twenty-fifth amendment, submitted a letter of resignation as a Representative to the Governor of his State, and a copy of his letter of resignation was laid before the House by the Speaker following the completion of a Joint Meeting for his swearing-in as Vice President (Dec. 6, 1973, p. 39927). A sitting Member having been confirmed as Secretary of Defense, his letter of resignation was laid before the House prior to his being sworn in (March 17, 1989, p. ——).

§ 20. Vacancy from declination.

A Member who has been elected to a seat may decline to accept it, and in such a case the House informed the executive of the State of the vacancy (II, 1234). The House has decided an election contest against a returned Member who had not appeared to claim the seat (I, 638). In one instance a Member-elect who had been convicted in the courts did not appear during the term (IV, 4484, footnote).

§ 21. Vacancy by withdrawal.

At the time of the secession of several States, members of the House from those States withdrew (II, 1218). In the Senate, in cases of such withdrawals, the Secretary was directed to omit the names of the Senators from the roll (II, 1219), and the act of withdrawal was held to create a vacancy which the legislature might recognize (I, 383).

§ 22. Vacancy by action of the House.

Where the House, by its action in a question of election or otherwise, creates a vacancy, the Speaker is directed to notify the Executive of the State (I, 502, 709, 824; II, 1203–1205; Mar. 1, 1967, p. 5038; Jan. 3, 1973, pp. 15–16; Feb. 24, 1981, pp. 2916–18). A resolution as to such notification is presented as a question of privilege (III, 2589), as is a resolution declaring a vacancy where the Member-elect was unable to take the oath of office or to resign because of an incapacitating illness (Feb. 24, 1981, pp. 2916–18).

§ 23. Questions as to the existence of a vacancy.

The House declines to give prima facie effect to credentials, even though they be regular in form, until it has ascertained whether or not the seat is vacant (I, 322, 518, 565, 569), and a person returned as elected at a second election was unseated on ascertainment that another person had actually been chosen at the first election (I, 646). Where a Member was reelected to the House, although at the time of the election he had been unaccounted for for several weeks following the disappearance of the plane on which he was a passenger, the Governor of the State from which he was elected transmitted his certificate to the House in the regular fashion. When the Member-elect was still missing at the time the new Congress convened, and circumstances were such that other passengers on the missing plane had been presumed dead following judicial inquiries in the State where the plane was lost, the House declared the seat vacant. (H. Res. 1, 93d Cong., Jan. 3, 1973, pp. 15–16). For further information on elections of officers, see Deschler's Precedents Ch. 6.

§ 24. Functions of the state executive in filling vacancies.

The term "vacancy" as occurring in this paragraph of the Constitution has been examined in relation to the functions of the State executive (I, 312, 518). A federal law empowers the States and Territories to provide by law the times of elections to fill vacancies (I, 516; 2 U.S.C. 8); but an election called by a governor in pursuance of constitutional authority was held valid although no state law prescribed time, place, or manner of such election (I, 517). Where two candidates had an equal number of votes, the governor did not issue credentials to either, but ordered a new election after they had waived their respective claims (I, 555).

§ 25. Term of a Member elected to fill a vacancy.

A Member elected to fill a vacancy serves no longer time than the remainder of the term of the Member whose place he fills (I, 3).

For the compensation and allowances of Members elected to fill vacancies, see § 87, infra.

§ 26. House chooses the Speaker and other officers.

[5] The House of Representatives shall chuse their Speaker and other Officers; * * *

The officers of the House are the Speaker, who has always been one of its Members and whose term as Speaker must expire with his term as a Member; and the Clerk, Sergeant-at-Arms, Doorkeeper, Postmaster, and Chaplain (I, 187), no one of whom has ever been chosen from the sitting membership of the House, and who continue in office until their successors are chosen and qualified (I, 187), in one case continuing through the entire Congress succeeding that in which they were elected (I, 244, 263). The House formerly provided by special rule that the Clerk should continue in office until another should be chosen (I, 187, 188, 235, 244); and in later years the statutes have imposed on the Clerk, Sergeant-at-Arms, and Doorkeeper duties which contemplate their continuance (I, 14, 15; 2 U.S.C. 75a–1, 83).

§ 27. The vote on election of a Speaker.

The Speaker, who was at first elected by ballot, has been chosen by viva voce vote on a roll call since 1839 (I, 187). In 1809 the House held that a Speaker should be elected by a majority of all present (I, 215); and in 1879 it was held that a majority of all the membership of the House was not required, but only a majority of those present if a quorum (I, 216). On two occasions, by special rule, Speakers were chosen by a plurality of votes; but in each case the House by majority vote adopted a resolution declaring the result (I, 221, 222). The House has declined to choose a Speaker by lot (I, 221). The contest over the election of a Speaker in 1923 was resolved after procedure for adoption of rules for the 68th Congress had been presented (VI, 24).

§ 28. Vacancies in the office of Speaker.

The Speaker having died during the recess of Congress, the Clerk at the next session called the House to order, ascertained the presence of a quorum, and then the House proceeded to elect a successor (I, 234; Jan. 10, 1962, p. 5). Speaker Joseph W. Byrns having died during a session of Congress but not while the House was sitting, the Clerk on the following day called the House to order and his successor, Hon. William B. Bankhead, was elected by resolution (June 4, 1936, p. 9016). Speaker Bankhead also died during a session, on a day when the House was not meeting. The Clerk on the following day called the House to order and Hon. Sam Rayburn was elected by resolution (Sept. 16, 1940, p. 12231). Form of resolution offered on death of a Speaker (September 16, 1940, p. 12232; Jan. 10, 1962, p. 9) and a former Speaker (VIII, 3564; March 7, 1968, p. 5742). A resolution declaring vacant the office of Speaker is presented as a matter of high constitutional privilege (VI, 35). A proposition to elect a Speaker is in order at any time and presents a question of the highest privilege (VIII, 3383). Speakers have resigned by rising in their place and addressing the House (I, 231, 233), by calling a Member to the Chair and tendering the resignation verbally from the floor (I, 225), or by sending a letter which the Clerk reads to the House at the beginning of a new session (I, 232). When the Speaker resigns no action of the House excusing him from service is taken (I, 232). In one instance a Speaker resigned on the last day of the Congress, and the House elected a successor for the day (I, 225). Instance wherein the Speaker, following a vote upon an essential question indicating a change in the party control of the House, announced that under the circumstances it was incumbent upon the Speaker to resign or to recognize for a motion declaring vacant the office of Speaker (VI, 35).

§ 29. Power of House to elect its officers as related to law.

The effect of a law to regulate the action of the House in choosing its own officers has been discussed (IV, 3819), and such a law has been considered of doubtful validity (V, 6765, 6766) in theory and practice (I, 241, 242). An amendment to the Legislative Reorganization Act of 1946 was enacted by the eighty-third Congress (2 U.S.C. 75a–1) authorizing temporary appointments by the Speaker to fill vacancies in the offices of Clerk, Sergeant at Arms, Doorkeeper, Postmaster, or Chaplain. Under this authority, temporary Sergeants at Arms (Jan. 6, 1954, p. 8; June 30, 1972, p. 23665; and Feb. 28, 1980, p. 4350), a temporary Clerk (Nov. 15, 1975, p. 36901), a temporary Chaplain (March 14, 1966, p. 5712), and a temporary Doorkeeper (December 20, 1974, p. 41855) have been appointed.

§ 30. Election of Clerk in relation to business.

The office of Clerk becoming vacant, it was held that the House would not be organized for business until a Clerk should be elected (I, 237); but in another instance some business intervened before a Clerk was elected (I, 239). At the time of organization, while the Clerk of the preceding House was yet officiating, and after the Speaker had been elected, the House proceeded to legislation and other business before electing a Clerk (I, 242, 244). But in one case it was held that the law of 1789 (see 2 U.S.C. 25) bound the House to elect the Clerk before proceeding to business (I, 241).

§ 31. House of Representatives alone impeaches.

* * * and [the House of Representatives] shall have the sole Power of Impeachment.

In 1868 the Senate ceased in its rules to describe the House, acting in an impeachment, as the "grand inquest of the nation" (III, 2126). See also Art. II, sec. 4 (§ 173, infra); Deschler's Precedents Ch. 14.

A federal court having subpoenaed certain evidence gathered by a committee of the House in an impeachment inquiry, the House adopted a resolution granting such limited access to the evidence as would not infringe upon its sole power of impeachment (August 22, 1974, p. 30047).

§ 32. Numbers, terms, and votes of Senators.

SECTION 3. [1] [The Senate of the United States shall be composed of two Senators from each State, chosen by the Legislature thereof, for six Years; and each Senator shall have one Vote.]

This provision has now been changed by the Seventeenth Amendment to the Constitution.

§ 33. Division of the Senate into classes.

[2] Immediately after they shall be assembled in Consequence of the first Election, they shall be divided as equally as may be into three Classes. The Seats of the Senators of the first Class shall be vacated at the Expiration of the second Year, of the second Class at the Expiration of the fourth Year, and of the third Class at the Expiration of the sixth

§ 34. Filling of vacancies in the Senate.

Year, so that one-third may be chosen every second Year; [and if Vacancies happen by Resignation, or otherwise, during the Recess of the Legislature of any State, the Executive thereof may make temporary Appointments until the next Meeting of the Legislature, which shall then fill such Vacancies.]

That part of the above paragraph in brackets was changed by the Seventeenth Amendment.

§ 35. Qualifications of Senators.

[3] No Person shall be a Senator who shall not have attained to the Age of thirty Years, and been nine Years a Citizen of the United States, and who shall not, when elected, be an Inhabitant of that State for which he shall be chosen.

In 1794 the Senate decided that Albert Gallatin was disqualified, not having been a citizen nine years although he had served in the war of Independence and was a resident of the country when the Constitution was formed (I, 428); and in 1849 that James Shields was disqualified, not having been a citizen for the required time (I, 429). But in 1870 the Senate declined to examine as to H. R. Revels, a citizen under the recently adopted fourteenth amendment (I, 430). As to inhabitancy the Senate seated one who, being a citizen of the United States, had been an inhabitant of the State from which he was appointed for less than a year (I, 437). Also one who, while stationed in a State as an army officer had declared his intention of making his home in the State, was admitted by the Senate (I, 438). A Senator who at the time of his election was actually residing in the District of Columbia as an officeholder, but who voted in his old home and had no intent of making the District his domicile, was held to be qualified (I, 439).

§ 36. The Vice President and his vote.

[4] The Vice President of the United States shall be President of the Senate, but shall have no Vote, unless they be equally divided.

The right of the Vice President to vote has been construed to extend to questions relating to the organization of the Senate (V, 5975), as the election of officers of the Senate (V, 5972–5974), or a decision on the title of a claimant to a seat (V, 5976, 5977). The Senate has declined to make a rule relating to the vote of the Vice President (V, 5974).

§ 37. Choice of President pro tempore and other officers of the Senate.

[5] The Senate shall chuse their other Officers, and also a President pro tempore, in the Absence of the Vice President, or when he shall exercise the Office of President of the United States.

§ 38. Senate tries impeachment and convicts by two-thirds vote.

[6] The Senate shall have the sole Power to try all Impeachments. When sitting for that Purpose, they shall be on Oath or Affirmation. When the President of the United States is tried, the Chief Justice shall preside: And no Person shall be convicted without the Concurrence of two thirds of the Members present.

For the exclusive power of the Senate to try impeachments under the United States Constitution, see Ritter *v.* United States, 84 Ct. Cls. 293 (1936), cert. denied, 300 U.S. 668 (1937). See also Mississippi *v.* Johnson, 71 U.S. (4 Wall.) 475 (1867) (dictum).

In 1868, after mature consideration, the Senate overruled the old view of its functions (III, 2057), and decided that it sat for impeachment trials as the Senate and not as a court (III, 2057), and eliminated from its rules all mention of itself as a "high court of impeachment" (III, 2079, 2082).

§ 39. The presiding officer.

An anxiety lest the Chief Justice might have a vote in the approaching trial of the President seems to have prompted this action (III, 2057). There was examination of the question of the Chief Justice's power to vote (III, 2098); but the Senate declined to declare his incapacity to vote, and he did in fact give a casting vote on incidental questions (III, 2067). The Senate declined to require that the Chief Justice be sworn when about to preside (III, 2080); but the Chief Justice had the oath administered by an associate justice (III, 2422).

In impeachments for officers other than the President of the United States the presiding officer of the Senate presides, whether he be Vice President, the regular President pro tempore (III, 2309, footnote, 2337, 2394) or a special President pro tempore chosen to preside at the trial only (III, 2089, 2477).

§ 40. Oath, and quorum.

Senators elected after the beginning of an impeachment trial are sworn as in the case of other Senators (III, 2375). The quorum of the Senate sitting for an impeachment trial is a quorum of the Senate itself, and not merely a quorum of the Senators sworn for the trial (III, 2063). In 1868, when certain States were without representation, the Senate declined to question its competency to try an impeachment case (III, 2060). See S. Doc. 93-102, "Procedure and Guidelines for Impeachment Trials in the United States Senate", for precedents relating to the conduct of Senate impeachments.

§ 41. Judgment in cases of impeachment.

7 Judgment in Cases of Impeachment shall not extend further than to removal from Office, and disqualification to hold and enjoy any Office of honor, Trust or Profit under the United States: but the Party convicted shall nevertheless be liable and subject to Indictment, Trial, Judgment and Punishment, according to Law.

There has been discussion as to whether or not the Constitution requires both removal and disqualification on conviction (III, 2397); but in the case of Pickering the Senate decreed only removal (III, 2341). In the case of Humphreys, judgment of both removal and disqualification was pronounced (III, 2397). The question on removal and disqualification has been held divisible for the vote (III, 2397; VI, 512).

The question of judgment requires only a majority vote (VI, 512; April 17, 1936, p. 5606).

In the Ritter case, it was first held that upon conviction of the respondent, judgment of removal required no vote, following automatically from conviction under article II, section 4 (April 17, 1936, p. 5607). In the 99th Congress, having tried to conviction the first impeachment case against a federal district judge since 1936, the Senate ordered his removal from office (Oct. 9, 1986, p. ——).

§ 42. Times, places, and manner of elections of Representatives and Senators.

SECTION 4. 1 The Times, Places and Manner of holding Elections for Senators and Representatives, shall be prescribed in each State by the Legislature thereof; but the Congress may at

any time by Law make or alter such Regulations, except as to the places of chusing Senators.

The relative powers of the Congress and the States under this graph have been the subject of much discussion (I, 311, 313, 507, footnote); but Congress has in fact fixed by law the time of elections (I, 508; VI, 66; 2 U.S.C. 7), and has controlled the manner to the extent of prescribing a ballot or voting machine (II, 961; VI, 150; 2 U.S.C. 9). When a State delegated to a municipality the power to regulate the manner of holding an election, a question arose (II, 975). A question has arisen as to whether or not a State, in the absence of action by Congress, might make the time of election of Congressmen contingent on the time of the State election (I, 522). This paragraph gives Congress the power to protect the right to vote in primaries where they are an integral part of the election process. United States *v.* Classic, 313 U.S. 299 (1941); United States *v.* Wurzbach, 280 U.S. 396 (1930). Congress may legislate under this paragraph to protect the exercise of the franchise in congressional elections. Ex parte Siebolt, 100 U.S. 371 (1880); Ex parte Yarbrough, 110 U.S. 651 (1884).

§ 43. Functions of a State legislature in fixing time, etc., of elections.

The meaning of the word "legislature" in this clause of the Constitution has been the subject of discussion (II, 856), as to whether or not it means a constitutional convention as well as a legislature in the commonly accepted meaning of the word (I, 524). The House has sworn in Members chosen at an election the time, etc., of which was fixed by the schedule of a constitution adopted on that election day (I, 519, 520, 522). But the House held that where a legislature has been in existence a constitutional convention might not exercise the power (I, 363, 367). It has been argued generally that the legislature derives the power herein discussed from the Federal and not the State Constitution (II, 856, 947), and therefore that the State constitution might not in this respect control the State legislature (II, 1133). The House has sustained this view by its action (I, 525). But where the State constitution fixed a date for an election and the legislature had not acted, although it had the opportunity, the House held the election valid (II, 846).

§ 44. Decisions of the court.

Decisions of the Supreme Court of the United States:

Ex parte Siebold, 100 U.S. 371 (1880); Ex parte Clark, 100 U.S. 399 (1880); Ex parte Yarbrough, 110 U.S. 651 (1884); In re Coy, 127 U.S. 731 (1888); Ohio *v.* Hildebrant, 241 U.S. 565 (1916); United States *v.* Mosley, 238 U.S. 383 (1915); United States *v.* Gradwell, 243 U.S. 476 (1917); Newberry *v.* United States, 256 U.S. 232 (1921); Smiley *v.* Holme, 285 U.S. 355 (1932); United States *v.* Classic, 313 U.S. 299 (1941); Smith *v.* Allwright, 321 U.S. 649 (1944); Roudebush *v.* Hartke, 405 U.S. 15 (1972);

Buckley *v.* Valeo, 424 U.S. 1 (1976). In Public Law 91–285, Congress lowered the minimum age of voters in all federal, state and local elections from 21 to 18 years. In Oregon *v.* Mitchell, 400 U.S. 112 (1970), the Supreme Court upheld the power of Congress under article I, section 4 and under § 5 of the fourteenth amendment to the Constitution to fix the age of voters in federal elections, but held that the tenth amendment to the Constitution reserved to the States the power to establish voter age qualifications in State and local elections. The twenty-sixth amendment to the Constitution extended the right of persons 18 years of age or older to vote in elections held under State authority.

§ 45. Annual meeting of Congress.

2 [The Congress shall assemble at least once in every Year, and such Meeting shall be on the first Monday in December, unless they shall by Law appoint a different Day.]

This provision of the Constitution has been superseded by the twentieth amendment.

In the later but not the earlier practice (I, 5), prior to the twentieth amendment, the fact that Congress had met once within the year did not make uncertain the constitutional mandate to meet on the first Monday of December (I, 6, 9–11). Early Congresses, convened either by proclamation or law on a day earlier than the constitutional day, remained in continuous session to a time beyond that day (I, 6, 9–11). But in the later view an existing session ends with the day appointed by the Constitution for the regular annual session (II, 1160). Congress has frequently appointed by law a day for the meeting (I, 4, 5, 10–12, footnote; see also § 243).

§ 46. House the judge of elections, returns, and qualification.

SECTION 5.[1] Each House shall be the Judge of the Elections, Returns and Qualifications of its own Members, * * *.

In judging the qualifications of its Members, the House may not add qualifications to those expressly stated in the United States Constitution. Powell *v.* McCormack, 395 U.S. 486 (1969). This phrase allows the House or Senate to deny the right to a seat without unlawfully depriving a State of its right to equal representation. Barry *v.* United States ex rel Cunningham, 279 U.S. 597 (1929). But a State may conduct a recount of votes without interfering with the authority of the House under this phrase. Roudebush *v.* Hartke, 405 U.S. 15 (1972). For discussion of the power of the House to judge elections, see Deschler's Precedents Ch. 8 (Elections) and Ch. 9 (Election Contests); for discussion of the power of the House to judge qualifications, see Deschler's Precedents Ch. 7.

The House has the same authority to determine the right of a Delegate to his seat that it has in the case of a Member (I, 423). The House may not delegate the duty of judging its elections to another tribunal (I, 608), and the courts of a State have nothing to do with it (II, 959). The House has once examined the relations of this power to the power to expel (I, 469).

§ 47. Power of judging as related to State laws as to returns.

As nearly all the laws governing the elections of Representatives in Congress are State laws, questions have often arisen as to the relation of this power of judging to those laws (I, 637). The House decided very early that the certificate of a State executive issued in strict accordance with State law does not prevent examination of the votes by the House and a reversal of the return (I, 637). The House has also held that it is not confined to the conclusions of returns made up in strict conformity to State law, but may examine the votes and correct the returns (I, 774); and the fact that a State law gives canvassers the right to reject votes for fraud and irregularities does not preclude the House from going behind the returns (II, 887). The highest court in one State (Colorado) has ruled that it lacked jurisdiction to pass upon a candidate's allegations of irregularities in a primary election and that the House had exclusive jurisdiction to decide such questions and to declare the rightful nominee. (Sept. 23, 1970, p. 33320).

§ 48. Power of judging as related to State laws as to acts of the voter.

When the question concerns not the acts of returning officers, but the act of the voter in giving his vote, the House has found more difficulty in determining on the proper exercise of its constitutional power. While the House has always acted on the principle of giving expression to the intent of the voter (I, 575, 639, 641; II, 1090), yet it has held that a mandatory State law, even though arbitrary, may cause the rejection of a ballot on which the intent of the voter is plain (II, 1009, 1056, 1077, 1078, 1091). See Deschler's Precedents, Ch. 8, sec. 8.11, for discussion of distinction between directory state laws governing the conduct of election officials as to ballots, and mandatory laws regulating the conduct of voters.

§ 49. Power of House as related to constitutionality of State laws.

Where the State courts have upheld a State election law as constitutional the House does not ordinarily question the law (II, 856, 1071). But where there has been no such decision the House, in determining its election cases, has passed on the validity of State laws under State constitutions (II, 1011, 1134), and has acted on its decision that they were unconstitutional (II, 1075, 1126), but it is not the policy of the House to pass upon the validity of State election laws alleged to be in conflict with the State constitution (VI, 151).

The courts of a State have nothing to do directly with judging the

§ 50. Effect of interpretation of State election laws by State courts.

elections, qualifications, and returns of Representatives in Congress (II, 959), but where the highest State court has interpreted the State law the House has concluded that it should generally be governed by this interpretation (I, 645, 731; II, 1041, 1048), but does not consider itself bound by such interpretations (VI, 58). The House is not bound, however, by a decision on an analogous but not the identical question in issue (II, 909); and where the alleged fraud of election judges was in issue, the acquittal of those judges in the courts was held not to be an adjudication binding on the House (II, 1019). For a recent illustration of a protracted election dispute lasting four months see H. Rpt. 99-58, culminating in H. Res. 146, 99th Cong. (May 1, 1985, p. ——).

§ 51. Laws of Congress not binding on the House in its function of judging its elections.

The statutes of the United States provide specific methods for institution of a contest as to the title to a seat in the House (I, 678, 697–706) (2 U.S.C. 381 et seq.); but the House regards this law as not of absolute binding force, but rather a wholesome rule not to be departed from except for cause (I, 597, 719, 825, 833), and it sometimes by resolution modifies the procedure prescribed by the law (I, 449, 600).

Decisions of the Supreme Court of the United States:

In re Loney, 134 U.S. 317 (1890); Reed *v.* County Commissioners, 277 U.S. 376 (1928); Barry *v.* United States ex rel. Cunningham, 279 U.S. 597 (1929); Roudebush *v.* Hartke, 405 U.S. 15 (1972).

§ 52. The quorum.

* * * and a Majority of each [House] shall constitute a Quorum to do Business; but a smaller Number may adjourn from day to day, and may be authorized to compel the Attendance of absent Members, in such Manner, and under such Penalties as each House may provide.

§ 53. Interpretation of the Constitution as to number constituting a quorum.

Out of conditions arising between 1861 and 1891 the rule was established that a majority of the Members chosen and living constituted the quorum required by the Constitution (IV, 2885–2888); but later examination has resulted in a decision confirming in the House of Representatives the construction established in the Senate that a quorum consists of a majority of Senators duly chosen and sworn (I, 630; IV, 2891–2894). So the decision of the House now is that after the House is once organized the quorum consists of a majority of those Members chosen, sworn, and living whose membership has not been terminated by resignation or by the action of the House (IV, 2889, 2890; VI, 638).

§ 54. The theory of the quorum present; and the count by the Speaker.

For many years the quorum was determined only by noting the numbers of Members voting (IV, 2896, 2897), with the result that Members by refusing to vote could often break a quorum and obstruct the public business (II, 1034; IV, 2895, footnote; V, 5744). But in 1890 Mr. Speaker Reed directed the clerk to enter on the Journal as part of the record of a yea-and-nay vote names of Members present but not voting, thereby establishing a quorum of record (IV, 2895). This decision, afterwards sustained by the Supreme Court (IV, 2904; United States *v.* Ballin, 144 U.S. [1892], established the principle that a quorum present made valid any action by the House, although an actual quorum might not vote (I, 216, footnote; IV, 2932). And thenceforth the point of order as to a quorum was required to be that no quorum was present and not that no quorum had voted (IV, 2917). At the time of the establishment of this principle the Speaker revived the count by the Chair as a method of determining the presence of a quorum at a time when no record vote was ordered (IV, 2909). The Speaker has permitted his count of a quorum to be verified by tellers (IV, 2888), but did not concede it as a right of the House to have tellers under the circumstances (IV, 2916; VI 647–651; VIII, 2369, 2436), claiming that the Chair might determine the presence of a quorum in such manner as he should deem accurate and suitable (IV, 2932). The Chair counts all members in sight, whether in the cloak rooms, or within the bar (IV, 2970; VIII, 3120). Later, as the complement to the new view of the quorum, the early theory that the presence of a quorum was as necessary during debate or other business as on a vote was revived (IV, 2935–2949); also a line of rulings made under the old theory were overruled, and it was established that the point of no quorum might be made after the House had declined to verify a division by tellers or the yeas and nays (IV, 2918–2926).

§ 55. Relations of the quorum to acts of the House.

The absence of a quorum having been disclosed, there must be a quorum of record before the House may proceed to business (IV, 2952, 2953; VI, 624, 660, 662), and the point of no quorum may not be withdrawn even by unanimous consent after the absence of a quorum has been ascertained and announced by the Chair (IV, 2928–2931; VI, 657; Apr. 13, 1978, p. 10119; Sept. 25, 1984, p. ——). But when an action has been completed, it is too late to make the point of order that a quorum was not present when it was done (IV, 2927; VI, 655). But where action requiring a quorum was taken in the ascertained absence of a quorum by ruling of a Speaker pro tempore, the Speaker on the next day ruled that the action was null and void (IV, 2964; see also VIII, 3161). But such absence of a quorum should appear from the Journal if a legislative act is to be vacated for such reason (IV, 2962), and where the assumption that a quorum was present when the House acted was uncontradicted by the Journal, it was held that this assumption might not be overthrown by expressions of opinion by Members individually (IV, 2961).

Major revisions in the House rules concerning the necessity and establishment of a quorum have occurred in the 94th, 95th and 96th Congresses. Under the practice in the 93d Congress, for example, a point of no quorum would prevent the report of the Chairman of a Committee of the Whole (VI, 666); but in the 93d Congress clause 6 was added to Rule XV to provide that after the presence of a quorum is once ascertained on any day, a point of no quorum may not be entertained after the Committee has risen and pending the report of the Chairman to the House (see § 774c, infra). Clause 6 now specifically precludes a point of no quorum during the reception of any message from the President or the Senate, before or during the prayer, during the administration of oaths, during motions incidental to a call of the House, and (once a quorum has been established on that day) during special orders when no legislative business is pending. In the 95th Congress, the same clause of Rule XV was further amended to provide that it is not in order to make or entertain a point of order that a quorum is not present unless the Speaker has put the pending motion or proposition to a vote, but the Speaker retains the right to recognize a Member to move a call of the House at any time. A point of order of no quorum during debate only in the House does not lie independently under this clause of the Constitution since clause 6(e), Rule XV is a proper exercise of the House's constitutional rulemaking authority which can be interpreted consistently with the requirement that a quorum be present to conduct business (as opposed to mere debate) (Sept. 8, 1977, p. 28114; Sept. 12, 1977, pp. 28800-1).

Before these recent changes to Rule XV, a quorum was required at all times during the reading of the Journal (IV, 2732, 2733; VI, 625, 629) or messages from the President or the Senate (IV, 3522; VI 6600, 6650; VIII 3339); but the modern practice would require the presence of a quorum only when the question is put on a pending motion or proposition in the House such as on a motion incident to the reading, amendment, or approval of the Journal or on the referral or other disposition of other papers read to the House. A point of no quorum no longer lies during debate in the House. The practice in the Committee of the Whole is now governed by Rule XXIII, clause 2. No motion is in order on the failure of a quorum but the motions to adjourn and for a call of the House (IV, 2950; VI 680) and the motion to adjourn has precedence over the motion for a call of the House (VIII, 2642). A call of the House is in order under the Constitution before the adoption of the Rules (IV, 2981). Those present on a call of the House may prescribe a fine as a condition on which an arrested Member may be discharged (IV, 3013, 3014), but this is rarely done. A quorum is not required on motions incidental to a call of the House (IV, 2994; VI, 681; Oct. 8, 1940, p. 13403; and Oct. 8, 1968, p. 30090). The House may adjourn sine die in the absence of a quorum where both Houses have already adopted a concurrent resolution providing for a sine die adjournment on that day (Oct. 18, 1972, p. 37200).

§ 56. Relations of the quorum to organization of the House.

At the time of organization the two Houses inform one another of the appearance of the quorum in each, and the two Houses jointly inform the President (I, 198-203). A message from one House that its quorum has appeared is not delivered in the other until a quorum has appeared there also (I, 126). But at the beginning of a second session of a Congress the House proceeded to business, although a quorum had not appeared in the Senate (I, 126). At the beginning of a second session of a Congress unsworn Members-elect were taken into account in ascertaining the presence of a quorum (I, 175); however, at the beginning of the second session of the 87th Congress, the Clerk called the House to order, announced the death of Speaker Rayburn during the sine die adjournment, and did not call unsworn Members-elect or Members who had resigned during the hiatus to establish a quorum or elect a new Speaker (Jan. 10, 1962, p. 5). In both Houses the oath has been administered to Members-elect in the absence of a quorum (I, 174, 181, 182; VI, 22), although in one case the Speaker objected to such proceedings (II, 875). Prayer by the Chaplain is not business requiring the presence of a quorum and the Speaker declines to entertain a point of no quorum before prayer is offered (VI, 663; clause 6, Rule XV).

§ 57. Decisions of the court.

Decisions of the Supreme Court of the United States: United States *v.* Ballin, 144 U.S. 1 (1892); Kilbourn *v.* Thompson, 103 U.S. 190 (1881); Burton *v.* United States, 202 U.S. 344 (1906).

§ 58. The House determines its rules.

2 Each House may determine the Rules of its Proceedings, * * *

§ 59. Power to make rules not impaired by rules or law.

The power of each House of Representatives to make its own rules may not be impaired or controlled by the rules of a preceding House (I, 187, 210; V, 6002, 6743-6747), or by a law passed by a prior Congress (I, 82, 245; IV, 3298, 3579; V, 6765, 6766). The House in adopting its rules may, however, incorporate by reference as a part thereof all applicable provisions of law which constituted the Rules of the House at the end of the preceding Congress (H. Res. 5, 95th Cong., Jan. 4, 1977, pp. 53-70) and has also incorporated provisions of concurrent resolutions which were intended to remain applicable under the Budget Act (H. Res. 5, 98th Cong., Jan. 3, 1983, p. 34). The ordinary rights and functions of the House under the Constitution are exercised in accordance with the rules (III, 2567), and under later decisions questions of so-called constitutional privilege should also be considered in accordance with the rules (VI, 48; VII, 889; Apr. 8, 1926, p. 7147). But a law passed by an existing Congress with the concurrence of the House has been recognized by that House as of binding force in matters of procedure (V, 6767, 6768). In exercising its constitutional power to change its rules the House may confine itself within certain limitations (V, 6756; VIII, 3376); but the attempt of the House to deprive the Speaker of his vote as a Member by a rule was successfully resisted (V, 5966, 5967). While a law of 1789 (see 2 U.S.C. 25) requires the election of a Clerk before the House proceeds to business yet the House has held that it may adopt rules before electing a clerk (I, 245). While the Speaker ceases to be an officer of the House with the expiration of a Congress, the Clerk, by old usage, continues in a new Congress (I, 187, 188, 235, 244; see 2 U.S.C. 26). In case of a vacancy in the office of Clerk, Sergeant at Arms, Doorkeeper, Postmaster, or Chaplain, the Speaker is authorized to make temporary appointments (2 U.S.C. § 75a-1). The House has adopted a rule before election of a Speaker (I, 94, 95); but in 1839 was deterred by the law of 1789 and the Constitution from adopting rules before the administration of the oath to Members-elect (I, 140). The earlier theory that an officer might be empowered to administer oaths by a rule of either House has been abandoned in later practice and the authority has been conferred by law (III, 1823, 1824, 2079, 2303, 2479; 2 U.S.C. 191).

§ 60. Procedure in the House before the adoption of rules.

Before the adoption of rules the House is governed by general parliamentary law, but the Speakers have been inclined to give weight to the precedents of the House in modifying the usual constructions of that law (V, 6758–6760; VIII, 3384; January 3, 1953, p. 24; January 10, 1967, pp. 14–15). Prior to the adoption of rules, the statutory enactments incorporated into the rules of the prior Congress as an exercise of the rule-making power do not control the proceedings of the new House until it adopts rules incorporating those provisions (January 22, 1971, p. 132). Before adoption of rules, during debate on the resolution adopting rules, any Member may make a point of order that a quorum is not present based upon general parliamentary precedents, since the provisions of clause 6(e) of Rule XV prohibiting the Chair from entertaining such a point of order unless the question has been put on the pending proposition are not yet applicable (Jan. 15, 1979, p. 10).

The general parliamentary law as understood in the House is founded on Jefferson's Manual as modified by the practice of American legislative assemblies, especially of the House of Representatives (V, 6761–6763; January 3, 1953, p. 24), but the provisions of the House's accustomed rules are not necessarily followed (V, 5509, 5604).

§ 61. Joint rules.

The two Houses of Congress adopted in the early years of the Government joint rules to govern their procedure in matters requiring concurrent action; but in 1876 these joint rules were abrogated (IV, 3430; V, 6782–6787). The most useful of their provision continue to be observed in practice, however (IV, 3430; V, 6592).

Decisions of the Supreme Court of the United States: United States *v.* Smith, 286 U.S. 6 (1932); Christoffel *v.* United States, 338 U.S. 84 (1949);

United States *v.* Bryan, 339 U.S. 323 (1950); Yellin *v.* United States, 374 U.S. 109 (1963); Powell *v.* McCormack, 395 U.S. 486 (1969).

§ 62. Punishment and expulsion of Members.

* * * [Each House may] punish its Members for disorderly Behaviour, and, with the Concurrence of two thirds, expel a Member.

§ 63. Punishment by censure.

Three methods of punishment have been reprimand, censure, and expulsion. In action for censure the House has discussed whether or not the principles of the procedure of the courts should be followed (II, 1255). In one instance, pending consideration of a resolution to censure a Member, the Speaker informed him that he should retire (II, 1366), but this is not usual, and Members, against whom resolutions have been pending have participated in debate either by consent (II, 1656) or without question as to consent (II, 1246, 1253). A Member against whom a resolution of censure was pending was asked by the Speaker if he desired to be heard (VI, 236). But after the House had voted censure and the Member has been brought to the bar by the Sergeant-at-Arms to be censured, it was held that he might not then be heard (II, 1259). A resolution of censure should not apply to more than one Member (II, 1240, 1621). Debate on a resolution recommending a disciplinary sanction against a Member may not exceed the scope of the conduct of the accused Member (Dec. 18, 1987, p. ——). Censure is inflicted by the Speaker (II, 1259) and the words are entered in the Journal (II, 1251, 1656; VI 236), but the Speaker may not pronounce censure except by order of the House (VI, 237). When Members have resigned pending proceedings for censure, the House has nevertheless adopted the resolutions of censure (II, 1239, 1273, 1275, 1656). Members have been censured for personalities and other disorder in debate (II, 1251, 1253, 1254, 1259), assaults on the floor (II, 1665), for presenting a resolution alleged to be insulting to the House (II, 1246), and for corrupt acts (II, 1274, 1286). For abuse of the leave to print, the House censured a Member after a motion to expel him had failed (VI, 236). In one instance Members were censured for acts before the election of the then existing House (II, 1286). In the 94th Congress, the House by adopting a report from the Committee on Standards of Official Conduct reprimanded a Member for failing to report certain financial holdings in violation of Rule XLIV, the Code of Official Conduct, and for investing in stock in a Navy bank the establishment of which he was promoting, in violation of the Code of Ethics for Government Service (H. Res. 1421, July 29, 1976, pp. 24379–82). (For the Code of Ethics for Government Service, see H. Con. Res. 175, 85th Cong., 72 Stat. B12.) In the 95th Congress, following an investigation by the Committee on Standards of Official Conduct into whether Members or employees had improperly accepted things of value from the Republic of Korea or representatives thereof, the House reprimanded three Members, one for falsely answering an unsworn questionnaire relative to such gifts and violating the Code of Official Conduct, one for failing to report as required by law the receipt of a campaign contribution and violating the Code of Official Conduct, and one for failing to report a campaign contribution, converting a campaign contribution to personal use, testifying falsely to the committee under oath, and violating the Code of Official Conduct (Oct. 13, 1978, pp. 36984, 37009, 37017). In the 96th Congress, two Members were censured by the House: (1) A Member who during a prior Congress both knowingly increased an office employee's salary for repayment of that Member's personal expenses and who was unjustly enriched by clerk-hire employees' payments of personal expenses later compensated by salary increases, was censured and ordered to repay the amount of the unjust enrichment with interest (July 31, 1979, p. 21592); (2) a Member was censured for receiving over a period of time sums of money from a person with a direct interest in legislation in violation of clause 4, Rule XLIII, and for transferring campaign funds into office and personal accounts (June 10, 1980, pp. 13801–20). In the 98th Congress, the House adopted two resolutions (as amended in the House) censuring two Members for improper relationships with House pages in prior Congresses (July 20, 1983, p. —— and p. ——). In the 100th Congress, the House adopted a resolution reprimanding a Member for "ghost voting," improperly diverting government resources, and maintaining a "ghost employee" on his staff (Dec. 18, 1987, p. ——).

§ 64. Punishment by expulsion.

The power of expulsion has been the subject of much discussion (I, 469, 476, 481; II, 1264, 1265, 1269; VI, 56, 398; see Powell *v.* McCormack, 395 U.S. 486 [1969]). In one case a Member-elect who had not taken the oath was expelled (II, 1262), and in another case the power to do this was discussed (I, 476). In one instance the Senate assumed to annul its action of expulsion (II, 1243). The Supreme Court has decided that a judgment of conviction under a disqualifying statute does not compel the Senate to expel (II, 1282; Burton *v.* United States, 202 U.S. 344 [1906]). The power of expulsion in its relation to offenses committed before the Members' election has been discussed (II, 1286), and in one case the Judiciary Committee of the House concluded that a Member might not be punished for an offense alleged to have been committed against a preceding Congress (II, 1283); but the House itself declined to express doubt as to its power to expel and proceeded to inflict censure (II, 1286). Both Houses have distrusted their power to punish in such cases (II, 1264, 1284, 1285, 1288, 1289; VI, 56, 238). However, the 96th Congress punished Members on two occasions for offenses committed during a prior Congress (H. Res. 378, July 31, 1979, p. 21592; H. Res. 660, June 10, 1980, pp. 13801–20). It has been held that the power of the House to expel one of its Members is unlimited; a matter purely of discretion to be exercised by a two-thirds vote, from which there is no appeal (VI, 78). The resignation of the accused Member has always caused a suspension of proceedings for expulsion (II, 1275, 1276, 1279; VI, 238).

§ 65. Procedure for expulsion.

The House, in a proceeding for expulsion, declined to give the Member a trial at the bar (II, 1275); but the Senate has permitted a counsel to appear at its bar (II, 1263), although it declined to grant a request for a specific statement of charges or compulsory process for witnesses (II, 1264). Members threatened with expulsion have been heard on their own behalf by consent (II, 1273, 1275), or as a matter of right (II, 1269, 1286). In general, there has been discussion as to whether or not the principles of the procedure of the courts should be followed (II, 1264). The Senate once expelled several Senators by a single resolution (II, 1266). Members and Senators have been expelled for treason (II, 1261), for high misdemeanor inconsistent with public duty (II, 1263), for friendship or association with enemies of the Government and absence from their seats (II, 1269, 1270), and for bearing arms against the Government (II, 1267). In the 96th Congress, the House expelled a Member who had been convicted of bribery (a felony) for accepting funds to perform official duties as a Member of Congress (Oct. 2, 1980, pp. 28953–78).

§ 66. Propositions for punishment entertained as of privilege.

A proposition to censure or expel a Member presents a question of privilege (II, 1254; III, 2648–2651; VI, 236). An expulsion resolution when offered may be laid on the table (Oct. 1, 1976, p. 35111) or referred to committee (Mar. 1, 1979, p. 3753) before the proponent is recognized to debate it. A proposition to censure is not germane to a proposition to expel (VI, 236). On Oct. 2, 1980, the House expelled a Member who had been found guilty of accepting money in exchange for a promise to perform certain legislative acts (H. Res. 794, 96th Cong., 2d Session, pp. 28953–78).

A resolution providing that the House immediately proceed to consider whether a Member should be expelled presents a question of privilege (Speaker Clark, Dec. 9, 1913, pp. 584–586).

Decisions of the Supreme Court of the United States:

§ 67. Decisions of the court.

Anderson *v.* Dunn, 6 Wh. 204 (1821); Kilbourn *v.* Thompson, 103 U.S. 168 (1881); United States *v.* Ballin, 144 U.S. 1 (1892); In re Chapman, 166 U.S. 661 (1897); Burton *v.* United States, 202 U.S. 344 (1906); Powell *v.* McCormack, 395 U.S. 486 (1969).

§ 68. Each House to keep a journal.

3 Each House shall keep a Journal of its Proceedings, and from time to time publish the same, excepting such Parts as may in their Judgment require Secrecy; * * *

§ 69. The Journal the official record.

The Journal and not the Congressional Record is the official record of the proceedings of the House (IV, 2727). Its nature and functions have been the subject of extended discussions (IV, 2730, footnote). The House has fixed its title (IV, 2728). While it ought to be a correct transcript of the proceedings of the House, the House has not insisted on a strict chronological order of entries (IV, 2815). The Journal is dated as of the legislative and not the calendar day (IV, 2746).

§ 70. Journal a record of proceedings and not of reasons.

The Journal records proceedings but not the reasons therefor (IV, 2811) or the circumstances attending (IV, 2812), or the statements or opinions of Members (IV, 2817–2820). Exceptions to this rule are rare (IV, 2808, 2825). Protests have on rare occasions been admitted by the action of the House (IV, 2806, 2807), but the entry of a protest on the Journal may not be demanded by a Member as a matter of right (IV, 2798) and such demand does not present a question of privilege (IV, 2799). A motion not entertained is not entered on the Journal (IV, 2813, 2844–46).

§ 71. House's absolute control of entries in the Journal.

While the House controls the Journal and may decide what are proceedings, even to the extent of omitting things actually done or recording things not done (IV, 2784; VI, 634), and while the Speaker has entertained a motion to amend the Journal so as to cause it to state what was not the fact, leaving it for the House to decide on the propriety of the act (IV, 2785), holding that he could not prevent a majority of the House from so amending the Journal as to undo an actual transaction (IV, 3091–93), in none of those rulings was an amendment permitted to correct the Journal which had the effect of collaterally changing the tabling of a motion to reconsider. In fact, under the precedents cited in section 775, *infra*, under clause 1, Rule XVI it has been held not in order to amend or strike out a Journal entry setting forth a motion exactly as made (IV, 2783, 2789), and thus it was held not in order to amend the Journal by striking out a resolution actually offered (IV, 2789). And only in rare instances the House has nullified proceedings by rescinding the records of them in the Journal (IV, 2787), the House and Senate usually insisting on the accuracy of its Journal (IV, 2783, 2786). In rare instances the House and Senate have rescinded or expunged entries in Journals of preceding Congresses (IV, 2730, footnote, 2792, 2793).

§ 72. Record of votes in the Journal.

The Journal should record the result of every vote and state in general terms the subject of it (IV, 2804); but the result of a vote is recorded in figures only when the yeas and nays are taken (IV, 2827), when the vote is recorded by electronic device or by clerks, under the provisions of clause 5, Rule I, or when a vote is taken by ballot, it having been determined in latest practice that the Journal should show not only the result but the state of the ballot or ballots (IV, 2832).

§ 73. Approval of the Journal.

It is the uniform practice of the House to approve its Journal for each legislative day (IV, 2731). Where Journals of more than one session remain unapproved, they are taken up for approval in chronological order (IV, 2771-2773). In ordinary practice the Journal is approved by the House without the formal putting of the motion to vote (IV, 2774).

The former rule required the reading of the Journal on each legislative day. The reading could be dispensed with only by unanimous consent (VI, 625) or suspension of the rules (IV, 2747-2750) and had to be in full when demanded by any Member (IV, 2739-2741; VI, 627-628; Feb. 22, 1950, p. 2152).

The present form of the rule (Rule I, clause 1, § 621) was drafted from sec. 127 of the Legislative Reorganization Act of 1970 (84 Stat. 1140), incorporated into the standing rules in the 92d Congress (H. Res. 5, Jan, 22, 1971, p. 144), and was further amended on Jan. 15, 1979 (H. Res. 5, p. 7-16). Under the current practice, the Speaker is authorized to announce his approval of the Journal which is deemed agreed to by the House, subject to the right of any Member to demand a vote on agreeing to the Speaker's approval (which if decided in the affirmative is not subject to the motion to reconsider). In the 98th Congress, the Speaker was given the authority to postpone a record vote on agreeing to his approval of the Journal to a later time on that legislative day (clause 5(b), Rule I; H. Res. 5, Jan. 3, 1983, p. 34). While the transaction of any business is not in order before approval of the Journal (VI, 2751; VI, 629, 637; Oct. 8, 1968, p. 30096), approval of the Journal yields to the simple motion to adjourn (IV, 2757), administration of the oath (I, 171, 172), an arraignment of impeachment (VI, 469), and questions of the privileges of the House (II, 1630), and the Speaker may in his discretion recognize for a parliamentary inquiry before approval of the Journal (VI, 624). Under Rule I, clause 1 as amended in the 96th Congress, a point of order of no quorum is not in order before the Speaker announces his approval of the Journal. A point of order of no quorum is not in order during the reading of the Journal if a quorum has once been established on that day under clause 6(c)(1), Rule XV, and Rule XV, clause 6 generally prohibits the making of points of order of no quorum unless the Speaker has put the question on the pending motion or proposition.

§ 74. Motions to amend the Journal.

Under the practice before Rule I, clause 1 was adopted in its present form, the motion to amend the Journal took precedence over the motion to approve it (IV, 2760; VI, 633); but the motion to amend may not be admitted after the previous question is demanded on a motion to approve (IV, 2770; VI, 633; VIII, 2684). An expression of opinion as to a decision of the Chair was held not in order as an amendment to the Journal (IV, 2848). A proposed amendment to the Journal being tabled does not carry the Journal with it (V, 5435, 5436). While a proposed correction of the Journal may be recorded in the Journal, yet it is not in order to insert in full in this indirect way what has been denied insertion in the first instance (IV, 2782, 2804, 2805). The earlier practice was otherwise, however (IV, 2801–2803). The Journal of the last day of a session is not approved on the assembling of the next session, and is not ordinarily amended (IV, 2743, 2744). For further discussion of the composition and approval of the Journal, see Deschler's Precedents Ch. 5.

Decisions of the Supreme Court of the United States: Field *v.* Clark, 143 U.S. 649 (1892); United States *v.* Ballin, 144 U.S. 1 (1892).

§ 75. Yeas and Nays entered on the Journal.

* * * and the Yeas and Nays of the Members of either House on any question shall, at the Desire of one fifth of those Present, be entered on the Journal.

§ 76. Conditions of ordering yeas and nays.

The yeas and nays may be ordered before the organization of the House (I, 91; V, 6012, 6013), but are not taken in Committee of the Whole (IV, 4722, 4723). They are not necessarily taken on the passage of a resolution proposing an amendment to the Constitution (V, 7038, 7039; VIII, 3506), but are required to pass a bill over a veto (§ 104; VII, 1110). In the earlier practice of the House it was held that less than a quorum might not order the yeas and nays, but for many years the decisions have been uniformly the other way (V, 6016–6028). Neither is a quorum necessary on a motion to reconsider the vote whereby the yeas and nays are ordered (V, 5693). When a quorum fails on a yea and nay vote it is the duty of the Speaker and the House to take notice of that fact (IV, 2953, 2963, 2988). If the House adjourns, the order for the yeas and nays remains effective whenever the bill again comes before the House (V, 6014, 6015; V, 740; VIII, 3108), and it has been held that the question of consideration might not intervene on a succeeding day before the second calling of the yeas and nays (V, 4949). However, when the call of the House is automatic under clause 4 of Rule XV, the Speaker directs the roll to be called or the vote to be taken by electronic device without motion from the floor (VI, 678, 679, 694, 695); and should a quorum fail to vote and the House adjourn, proceedings under the automatic call are vacated and the question recurs de novo when the bill again comes before the House (Oct. 10, 1940, pp. 13534–35; Oct. 13, 1962, pp. 23474–35; Oct. 19, 1966, p. 27641). While the Constitution and the Rules of the House guarantee that votes taken by the yeas and nays bespread upon the Journal, neither requires that a Member's vote be announced to the public immediately during the vote (Sept. 19, 1985, p. 24245).

The yeas and nays may not be demanded until the Speaker has put the question in the form prescribed by clause 5, Rule I (Oct. 2, 1974, p. 33623).

§ 77. Demanding the yeas and nays.

The yeas and nays may be demanded while the Speaker is announcing the result of a division (V, 6039), while a vote by tellers is being taken (V, 6038), and even after the announcement of the vote if the House has not passed to other business (V, 6040, 6041; VIII, 3110). But after the Speaker has announced the result of a division on a motion and is in the act of putting the question on another motion it is too late to demand the yeas and nays on the first motion (V, 6042). And it is not in order during the various processes of a division to repeat a demand for the yeas and nays which has once been refused by the House (V, 6029, 6030, 6031). The constitutional right of a Member to demand the yeas and nays may not be overruled as dilatory (V, 5737; VIII, 3107); but this constitutional right does not exist as to a vote to second a motion when such second is required by the rules (V, 6032–6036; VIII, 3109). The right to demand yeas and nays is not waived by the fact that the Member demanding them has just made the point of no quorum and caused the Chair to count the House (V, 6044).

§ 78. Yeas and nays ordered by one-fifth.

In passing on a demand for the yeas and nays the Speaker need determine only whether one-fifth of those present sustain the demand (V, 6043; VIII, 3112, 3115). In ascertaining whether one-fifth of those present support a demand for the yeas and nays the Speaker counts the entire number present and not merely those who rise to be counted (VIII, 3111, 3120). Such count is not subject to verification by appeal (Sept. 12, 1978 (p. 28984)), and a request for a rising vote of those opposed to the demand is not in order (VIII, 3112–3114). After the House, on a vote by tellers, has refused to order the yeas and nays it is too late to demand the count of the negative on an original vote (V, 6045).

§ 79. Reconsideration of the vote ordering the yeas and nays.

A motion to reconsider the vote ordering the yeas and nays is in order (V, 6029; VIII, 2790), and the vote may be reconsidered by a majority. If the House votes to reconsider the yeas and nays may again be ordered by one-fifth (V, 5689–5691). But when the House, having reconsidered, again orders the yeas and nays, a second motion to reconsider may not be made (V, 6037). In one instance it was held that the yeas and nays might be demanded on a motion to reconsider the vote whereby the yeas and nays were ordered (V, 5689), but evidently there must be a limit to this process. The vote whereby the yeas and nays are refused may be reconsidered (V, 5692).

§ 80. Effect of an order of the yeas and nays.

In the general but not the universal practice debate has not been closed by the ordering of the yeas and nays until one Member has responded to the call (V, 6101–6105, 6160, 6161). A motion to adjourn may be admitted after the yeas and nays are ordered and before the roll call has begun (V, 5366); and a motion to suspend the rules has been entertained after the yeas and nays have been demanded on another matter (V, 6835). Consideration of a conference report (V, 6457), and a motion to reconsider the vote by which the yeas and nays were ordered (V, 6029; VIII, 2790) may be admitted. A demand for tellers or for a division is not precluded or set aside by the fact that the yeas and nays are demanded and refused (V, 5998; VIII, 3103).

Decisions of the Supreme Court of the United States:

§ 81. Decisions of the court.

Field *v.* Clark, 143 U.S. 649 (1892); United States *v.* Ballin, 144 U.S. 1 (1892); Twin City Bank *v.* Nebeker, 167 U.S. 196 (1897); Wilkes County *v.* Coler, 180 U.S. 506 (1901); Marshall *v.* Gordon, 243 U.S. 521 (1917).

§ 82. Adjournment for more than three days.

4 Neither House, during the Session of Congress shall, without the Consent of the other, adjourn for more than three days, nor to any other Place than that in which the two Houses shall be sitting.

The word "Place" in the above paragraph was construed to mean the seat of Government, and consent of the Senate is not required where the House orders its meetings to be held in another structure at the seat of Government (Speaker Rayburn, August 17, 1949, pp. 11651, 11683).

On November 22, 1940, p. 13715, the House of Representatives adopted a resolution providing that thereafter until otherwise ordered its meetings be held in the Caucus room of the new House Office Building. Likewise the Senate on the same day, p. 13709, provided that its meetings be held in the Chamber formerly occupied by the Supreme Court in the Capitol. The two Houses continued to hold their sessions in these rooms until the opening of the 77th Congress. These actions were necessitated because of the precarious condition of the roofs in the two Chambers. On June 28, 1949, p. 8571, and on September 1, 1950, p. 14140, the House provided that until otherwise ordered its meetings be held in the Caucus room of the new House Office Building, pending the remodeling of its Chamber. On June 29, 1949, p. 8584, and on August 9, 1950, p. 12106, the Senate provided that its meetings be held in the Chamber formerly occupied by the Supreme Court in the Capitol, pending remodeling of its Chamber. The House returned to its Chamber on January 3, 1950, and again on January 1, 1951. The Senate returned to its Chamber on January 3, 1950, and again on January 3, 1951.

§ 83. Adjournment of the House within the three-day limit.

The House of Representatives in adjourning for not "more than three days" must take into the count either the day of adjourning or the day of the meeting, and Sunday is not taken into account in making this computation (V, 6673, 6674). By special order, the House may provide for a session of the House on a Sunday, traditionally a "dies non" under the precedents of the House (Dec. 17, 1982, p. 31946; Dec. 20, 1987, p. ——). The House has by standing order provided that it should meet on two days only of each week instead of daily (V, 6675). Before the election of Speaker, the House has adjourned for more than one day (I, 89, 221). The House has by unanimous consent agreed to an adjournment for less than three days but specified that it would continue in adjournment for ten days pursuant to a concurrent resolution already passed by the House if the Senate adopted the concurrent resolution before the third day of the House's adjournment (Nov. 20, 1987, p. ——).

§ 84. Resolutions for adjournment of the two Houses.

Congress is adjourned for more than three days by a concurrent resolution (IV, 4031, footnote). When it adjourns in this way, but not to or beyond the day fixed by Constitution or law for the next regular session to begin, the session is not thereby necessarily terminated (V, 6676, 6677). Until the Sixty-seventh Congress neither House had ever adjourned for more than three days by itself with the consent of the other, but resolutions had been offered for the accomplishment of that end (V, 6702, 6703). On June 30, 1922, the House adjourned until August 15, 1922, with the consent of the Senate. Pursuant to a concurrent resolution (H. Con. Res. 266) the Senate granted its consent to an adjournment sine die of the House on August 20, 1954, and the House granted its consent to the Senate to an adjournment sine die at any time prior to December 25, 1954. The Senate acting under the authority of the aforementioned resolution adjourned sine die on December 2, 1954. The adjournment resolution in the 97th Congress, 2d Session provided for adjournment sine die of the House on December 20 or December 21 pursuant to a motion made by the Majority Leader or his designee, and granted the consent of the House to adjournment sine die of the Senate at any time prior to January 3, 1983, as determined by the Senate, and the consent of the House for adjournments or recesses of the Senate for periods of more than three days as determined by the Senate during such period (H. Con. Res. 438, Dec. 20, 1982, p. 32951). Another concurrent resolution in the 97th Congress provided for an adjournment of the Senate to a day certain and granted the consent of the Senate to an adjournment of the House for more than three days to a day certain, or to any day before that day as determined by the House (S. Con. Res. 102, May 27, 1982, pp. 12504, 12505). On one occasion the two Houses provided for an adjournment to a certain day, with a provision that if there should be no quorum present on that day the session should terminate (V, 6686). The two Houses have adjourned to a certain day, with a provision that they may be reassembled by the Leadership if legislative expediency so required such reassembling (July 8, 1943, p. 7516; June 23, 1944, p. 6667; Sept. 21, 1944, p. 8109; July 18, 1945, p. 7733; July 26, 1947, p. 10521; June 20, 1948, p. 9348; August 7, 1948, p. 10247), and in the 91st Congress, the two Houses agreed to a concurrent resolution adjourning both to dates certain but which also provided that the House was subject to recall by the Speaker if legislative expediency so warranted (July 20, 1970, p. 24978). In the 93d Congress, 1st and 2d Sessions, the two Houses agreed to concurrent resolutions adjourning the Congress sine die with a provision that the two Houses could be reassembled by the Leadership (December 22, 1973, p. 43327; December 20, 1974, p. 41815). A concurrent resolution to provide for adjournment for more than three days is offered in the House as a matter of privilege (V, 6701–6706), and is not debatable (VIII, 3372–3374). The Legislative Reorganization Act of 1970 provides for a sine die adjournment, or (in an odd numbered year) an adjournment of slightly over a month (from that Friday in August which is at least 30 days before Labor Day to the Wednesday following Labor Day) unless the nation is in a state of war, declared by Congress [84 Stat. 1140, Sec. 461(b)]. Congress can, of course, waive, this requirement and make other determinations regarding its adjournment, (See § 948, infra).

The requirement that resolutions providing for an adjournment sine die of either House may not be considered until Congress has completed action on the 2nd concurrent resolution on the budget for the fiscal year in question, and on any reconciliation legislation required by such a resolution, contained in section 310(f) of the Congressional Budget Act of 1974 (P.L. 93–344), was repealed by the Balanced Budget and Emergency Deficit Control Act of 1985, P.L. 99–177. That law amended sections 309 and 310 of the Congressional Budget Act to prohibit the consideration of concurrent resolutions during the month of July providing adjournments in excess of three days until the House has approved general annual appropriation bills within the jurisdictions of all the subcommittees on Appropriations for the ensuing fiscal year, and until the House has completed action on all reconciliation legislation for the ensuing fiscal year required to be reported by the concurrent resolution on the budget for that year. (See sec. 1007, infra).

A resolution providing for an adjournment sine die is not debatable (VIII, 3372–3374).

* * *

§ 85. Compensation of Members.

SECTION 6.[1] The Senators and Representatives shall receive a Compensation for their Services, to be ascertained by Law, and paid out of the Treasury of the United States.

§ 86. Salary and deductions.

The present rate of compensation of Representatives, Senators, the Resident Commissioner from Puerto Rico and Delegates is $89,500 per annum. The compensation of the Speaker and Vice President is at the rate of $115,000 per annum (2 U.S.C. 31; 3 U.S.C. 101) with an additional $10,000 per annum to assist in defraying expenses (2 U.S.C. 31b; 3 U.S.C. 111). The Majority and Minority Leaders of the House and Senate receive $99,500 per annum (2 U.S.C. 31). The above rates of compensation are all (except for the expense allowance) subject to annual cost of living adjustments pursuant to the Federal Pay Comparability Act of 1970. The last such adjustment was promulgated December 31, 1986 (Executive Order 12578).

The Commission on Executive, Legislative and Judicial Salaries established by the Federal Salary Act of 1967 (2 U.S.C. 351-361) is authorized and directed to review the salaries of specified government officials, including Members of Congress, every four years and submit its recommendations concerning salary levels and adjustments to the President. The President then makes recommendations concerning the salary commission report in the Budget message required by 31 U.S.C. 1105(a). In 1985, the Salary Act was amended (P.L. 99-190, section 135) to require a salary commission report with respect to fiscal year 1987. The President transmitted his recommendations concerning that report in his fiscal year 1988 Budget message (Jan. 5, 1987, H. Doc. 100-11). When not disapproved by the Congress in accordance with the Salary Act (2 U.S.C. 359), those recommendations took effect on March 1, 1987 and are reflected in the figures shown above. (For disapproval procedures, see section 1013(B-35), infra.) On return to the normal quadrennial cycle, the President transmitted with his fiscal year 1990 Budget message recommendations concerning the salary commission report with respect to fiscal year 1989 (Jan. 9, 1989, H. Doc. 101-21). Those recommendations were disapproved by Public Law 101-1 (H.J. Res. 129, 101st Cong., Feb. 7, 1989, p. ——).

The statutes also provides for deductions from the pay of Members and Delegates who are absent from the sessions of the House for reasons other than illness of themselves and families, or who retire before the end of the Congress (2 U.S.C. 39; IV, 3011, footnote). The law as to deductions has been held to apply only to Members who have taken the oath (II, 1154). Members and Delegates are paid monthly on certificate of the Speaker (2 U.S.C. 34, 35, 37, 57a). The Sergeant-at-Arms, or in case of his disability the Treasurer of the United States, disburses the pay of Members (31 U.S.C. 148). 4 U.S.C. 113 provides that the residence of a Member of Congress for purpose of imposing State income tax laws shall be the State from which elected and not the State or subdivision thereof in which the Member maintains an abode for the purpose of attending sessions of Congress.

§ 87. Questions as to compensation.

Questions have arisen frequently as to compensation of Members especially in cases of Members elected to fill vacancies (I, 500; II, 1155) and where there have been questions as to incompatible offices (I, 500) or titles seat (II, 1206). The Supreme Court has held that a Member chosen to fill a vacancy is entitled to salary only from the time that the compensation of his predecessor has ceased, Page *v.* United States, 127 U.S. 67 (1888). See also 2 U.S.C. 37.

§ 88. Travel and other official expense allowances.

In the 92nd Congress, the provisions of H. Res. 457 of that Congress, authorizing the Committee on House Administration to adjust allowances of Members and committees without further action by the House, were enacted into permanent law (85 Stat. 636; 2 U.S.C. 57), but the 94th Congress enacted into permanent law H. Res. 1372 of that Congress, stripping the Committee on House Administration of that authority and requiring House approval of the committee's recommendations, except in cases made necessary by price changes in materials and supplies, technological advances in office equipment, and cost of living increases (90 Stat. 1448; 2 U.S.C. 57a). The Committee on House Administration retains authority under 2 U.S.C. 57 to independently adjust amounts within total allowances and to set terms and conditions of such allowances (Mar. 21, 1977, p. 8227; Apr. 21, 1983, p. ——).

Each Member is authorized two allowances, an Official Expenses Allowance and a Clerk Hire Allowance, for the conduct of the official and representational duties of his office. A Member may transfer not to exceed $40,000 each session between the Clerk Hire Allowance and the Official Expenses Allowance (by order of the Committee on House Administration on July 26, 1985, p. 20795).

The Official Expenses Allowance, consolidating nine previously separate allowances, was authorized by order of the Committee on House Administration on June 30, 1976, pp. 21623–24, effective Jan. 3, 1977. Effective Jan. 3, 1989, the Official Expenses Allowance consists of a base of $67,000 per year plus variable expenses for travel, telephone communications, and district office space:

(a) The equivalent of 64 multiplied by the rate per mile multiplied by the mileage between the District of Columbia and the furthest point in the Member's District plus 10 percent, but in no case shall this amount be less than $6,200. Effective Jan. 3, 1985 (for appropriate rates per mile, see U.S. House of Representatives Congressional Handbook, prepared by the Committee on House Administration).

(b)(1) The dollar equivalent of 15,000 multiplied by the daytime person-to-person minute rate between the District of Columbia and the Member's district.

(2) If the Member has elected to utilize the WATS pool or similar service available in the House Office Buildings in the District of Columbia, the 15,000 multiplier is reduced by one-half.

(3) In no case shall the equivalent amount specified in (b)(1) be less than $6,000 or the amount specified in (b)(2) be less than $3,000.

(c) The dollar equivalent of 2,500 square feet multiplied by the maximum per square foot rental rate charged to Federal Agencies by the General Services Administration in the Member's District.

This allowance is available and may be obligated from January 3 of one year through January 2 of the following year and may be used for the expenses of travel, office equipment, district office lease, stationery, telecommunications, mass mailings, postage, computer services and other office and operational expenses (except for hiring and employment). Reimbursement for or payment of qualifying official expenses in any category and in any amount, up to the total of the consolidated allowance, is in the discretion of the Member. Rule XLIII, clause 4 and Rule XLV limit the use of other funds or sources for defraying such official office and operational expenses. The Clerk maintains a stationery room where Members may purchase supplies (II, 1161; 2 U.S.C. 110).

The annual Clerk Hire Allowance (for not to exceed 18 permanent clerks and 4 non-permanent clerks) is authorized for each Member, Delegate, and Resident Commissioner, up to a total sum of $431,760 per year (adjusted by order of the Committee on House Administration of June 30, 1976, pp. 21623-24, and further adjusted by cost-of-living increases each October pursuant to section 204a of Public Law 94-82). Until January 1, 1988, the maximum salary for staff members was the rate of basic pay authorized for Level V of the Executive Schedule (by order of the Committee on House Administration, Mar. 21, 1977, p. 8227). Under section 311 of the Legislative Branch Appropriations Act, 1988, as contained in section 101(i) of Public Law 100-202 (2 U.S.C. section 60a-2a), the maximum salary for staff members is set by pay order of the Speaker. A Member may not employ a relative on his Clerk Hire Allowance (5 U.S.C. 3110).

Each Member may also employ a "Lyndon Baines Johnson Congressional Intern" (two in one year, one at a time) for a maximum of two months at not to exceed $1,070 per month. Interns must be either enrolled in college or must be teachers of government or social studies at a secondary or postsecondary school (H. Res. 420, 93d Cong., Sept. 18, 1973, p. 30186).

The statutes provide for continuation of the pay of clerical assistants to a Member upon his or her death or resignation, until a successor is elected to fill the vacancy, such clerical assistants to perform their duties under the direction of the Clerk of the House (2 U.S.C. 92a-92d). Upon the explusion of a Member in the 96th Congress, the House by resolution extended those provisions to any termination of service by a Member during the term of office (H. Res. 804, Oct. 2, 1980, p. 28978).

For current information on the allowances for Members and the method of their accounting and disbursement, see current U.S. House of

Representatives Congressional Handbook, Committee on House Administration.

§ 89. Leadership staff allowances.

Separate from the Clerk Hire Allowance specified above, the leaders of the House (the Speaker, Majority Leader, Minority Leader, Majority Whip and Minority Whip) are entitled to office staffing allowances (consisting of certain statutory positions as well as lump-sum appropriations authorized by 84 Stat. 1140, sec. 473). The portion of these allowances for leadership office personnel may be adjusted by the Clerk of the House in certain situations when the President effects a pay adjustment for certain classes of federal employees under the Federal Pay Comparability Act of 1970 (Public Law 91–656, 84 Stat. 1946).

§ 90. Privilege of Members from arrest.

* * * They [the Senators and Representatives] shall in all Cases, except Treason, Felony, and Breach of the Peace, be privileged from Arrest during their attendance at the Session of their respective Houses, and in going to and returning from the same; * * *

§ 91. Assertions of privilege of Members by the House.

The word "felony" in this provision has been interpreted not to refer to a delinquency in a matter of debt (III, 2676), and "treason, felony, and breach of the peace" have been construed to mean all indictable crimes (III, 2673). The Supreme Court has held that the privilege does not apply to arrest in any criminal case. Williamson *v.* United States, 207 U.S. 425 (1908). The courts have discussed and sustained the privilege of the Member in going to and returning from the session (III, 2674); and where a person assaulted a Member on his way to the House, although at a place distant therefrom, the House arrested him on warrant of the Speaker, arraigned him at the bar and committed him (II, 1626, 1628). Other assaults under these circumstances have been treated as breaches of privilege (II, 1645). Where a Member had been arrested and detained under mesne process in a civil suit during a recess of Congress, the House decided that he was entitled to discharge on the assembling of Congress, and liberated him and restored him to his seat by the hands of its own officer (III, 2676). Service of process is distinguished from arrest in civil cases and related historical data are collected in Long *v.* Ansell, 293 U.S. 76 (1934), where the Supreme Court held that the clause was applicable only to arrests in civil suits, now largely obsolete but common at the time of the adoption of the United States Constitution. Rule L, infra, was added in the 97th Congress to provide a standing procedure governing subpoenas to Members, officers, and employees directing their appearance as witnesses relating to the official functions of the House, or for the production of House documents.

§ 92. Members privileged from being questioned for speech or debate.

*** * * and for any Speech or Debate in either House, they [the Senators and Representatives] shall not be questioned in any other place.**

§ 93. Scope of the privilege.

This privilege as to "any speech or debate" applies generally to "things done in a session of the House by one of its Members in relation to the business before it." Kilbourn *v.* Thompson, 103 U.S. 168 (1881), cited at III, 2675. See also II, 1655 and §§ 301, 302, infra, for provisions in Jefferson's Manual on the privilege; and Deschler's Precedents, Ch. 7. The clause precludes judicial inquiry into the motivation, preparation, or content of a Member's speech on the floor and prevents such a speech from being made the basis for a criminal conspiracy charge against the Member. United States *v.* Johnson, 383 U.S. 169 (1966). The Supreme Court held in United States *v.* Helstoski, 442 U.S. 447 (1979), that under the Speech or Debate Clause, neither evidence of nor references to legislative acts of a Member of Congress may be introduced by the Government in a prosecution under the official bribery statute. But the Supreme Court has limited the scope of legislative activity which is protected under the clause by upholding grand jury inquiry into the possession and nonlegislative use of classified documents by a Member. Gravel *v.* United States, 408 U.S. 606 (1972). The Court has also sustained the validity of an indictment of a Member for accepting an illegal bribe to perform legislative acts. United States *v.* Brewster, 408 U.S. 501 (1972). Nor does the clause protect transmittal of allegedly defamatory material issued in press releases and newsletters by a Senator, as neither was essential to the deliberative process of the Senate. Hutchinson *v.* Proxmire, 443 U.S. 111 (1979).

Legislative employees acting under orders of the House are not necessarily protected under the clause from judicial inquiry into the constitutionality of their actions. Powell *v.* McCormack, 395 U.S. 486 (1969); Kilbourn *v.* Thompson, 103 U.S. 165 (1880); Dombrowski *v.* Eastland, 387 U.S. 82 (1967). But see Gravel *v.* United States, 408 U.S. 606 (1972), where the Supreme Court held that the aide of a Senator was protected under the clause when performing legislative acts which would have been protected under the clause if performed by the Senator himself. There is no distinction between the Members of a Senate subcommittee and its chief counsel insofar as complete immunity under the Speech and Debate Clause is provided for the issuance of a subpoena pursuant to legitimate legislative inquiry. Eastland *v.* U.S. Servicemen's Fund, 421 U.S. 491 (1975). See also Doe *v.* McMillan, 412 U.S. 306 (1973) (relating to the dissemination of a congressional report) for the immunity under this clause of Members of the House and their staffs, and for the common-law immunity of the Public Printer and Superintendent of Documents.

For federal court decisions on the applicability of the clause to unofficial circulation of reprints from the Congressional Record, see McGovern *v.* Martz, 182 F. Supp. 343 (1960); Long *v.* Ansell, 69 F.2d 386 (1934), aff'd, 293 U.S. 76 (1934); Methodist Federation for Social Action *v.* Eastland, 141 F. Supp. 729 (1956). For inquiry into a Member's use of the franking privilege, see Hoellen *v.* Annunzio, 468 F.2d 522 (1972), cert. denied, 412 U.S. 953 (1973); Schiaffo *v.* Helstoski, 350 F. Supp. 1076 (1972), rev'd 492 F.2d 413 (1974). For inquiry into the printing of committee reports, see Doe *v.* McMillan, 412 U.S. 306 (1973); Hentoff *v.* Ichord, 318 F. Supp. 1175 (1970).

§ 94. Action by the House.

For assaulting a Member for words spoken in debate, Samuel Houston, not a Member, was arrested, tried, and censured by the House (II, 1616–1619). Where Members have assaulted other Members for words spoken in debate (II, 1656), or proceeded by duel (II, 1644), or demanded explanation in a hostile manner (II, 1644), the House has considered the cases as of privilege. A communication addressed to the House by an official in an Executive Department calling in question words uttered by a Member in debate was criticised as a breach of privilege and withdrawn (III, 2684). An explanation having been demanded of a Member by a person not a Member for a question asked of the latter when a witness before the House, the matter was considered but not pressed as a breach of privilege (III, 2681). A letter from a person supposed to have been assailed by a Member in debate, asking properly and without menace if the speech was correctly reported, was held to involve no question of privilege (III, 2682). Unless it be clear that a Member has been questioned for words spoken in debate, the House declines to act (II, 1620; III, 2680).

For assaulting a Member, Charles C. Glover was arrested, arraigned at the bar of the House, and censured by the Speaker by direction of the House, although the provocation of the assault was words spoken in debate in the previous Congress (VI, 333).

Decisions of the Supreme Court of the United States:

§ 95. Decisions of the court.

Kilbourn *v.* Thompson, 103 U.S. 168 (1881); Tenney *v.* Brandhove, 341 U.S. 367 (1951); United States *v.* Johnson, 383 U.S. 169 (1966); Dombrowski *v.* Eastland, 387 U.S. 82 (1967); Powell *v.* McCormack, 395 U.S. 486 (1969); Gravel *v.* United States, 408 U.S. 606 (1972); United States *v.* Brewster, 408 U.S. 501 (1972); United States *v.* Helstoski, 442 U.S. 477 (1979); Hutchinson *v.* Proxmire, 443 U.S. 111 (1979).

§ 96. Restriction on appointment of Members to office.

2 No Senator or Representative shall, during the Time for which he was elected, be appointed to any Civil Office under the Authority of the United

States, which shall have been created, or the Emoluments whereof shall have been encreased during such time; * * *.

In a few cases questions have arisen under this paragraph (I, 506, footnote; and see 42 Ops. Atty. Gen. No. 36, January 3, 1969). See also Deschler's Precedents, Ch. 7.

§ 97. Members not to hold office under the United States.

* * * and no Person holding any Office under the United States, shall be a Member of either House during his Continuance in Office.

The meaning of the word "office" as used in this paragraph has been discussed (I, 185, 417, 478, 493; II, 993; VI, 60, 64), as has also the general subject of incompatible offices (I, 563).

§ 98. As to what are incompatible offices.

The Judiciary Committee has concluded that members of commissions created by law to investigate and report, but having no legislative, executive, or judicial powers, and visitors to academies, regents, directors, and trustees of public institutions, appointed under the law by the Speaker, are not officers within the meaning of the Constitution (I, 493). Membership on joint committees created by the statute is not an office in the contemplation of the Constitutional provision prohibiting Members of Congress from holding simultaneously other offices under the United States (VII, 2164). A Member of either House is eligible to appointment to any office not forbidden him by law, the duties of which are not incompatible with those of a Member (VI, 63) and the question as to whether a Member may be appointed to the Board of Managers of the Soldiers' Home and become local manager of one of the Homes, is a matter for the decision of Congress itself (VI, 63). The House has also distinguished between the performance of paid services for the Executive (I, 495), like temporary service as assistant United States attorney (II, 993), and the acceptance of an incompatible office. The House has declined to hold that a contractor under the Government is constitutionally disqualified to serve as a Member (I, 496). But the House, or its committees, have found disqualified a Member who was appointed a militia officer in the District of Columbia (I, 486) and in various States (VI, 60), and Members who have accepted commissions in the Army (I, 491, 492, 494). But the Judiciary Committee has expressed the opinion that persons on the retired list of the Army do not hold office under the United States in the constitutional sense (I, 494). A Member-elect has continued to act as governor of a State after the assembling of the Congress to which he was elected (I, 503), but the duties of a Member of the House and the Governor of a

State are absolutely inconsistent and may not be simultaneously discharged by the same Member (VI, 65).

§ 99. Appointment of Members-elect to offices under the United States.

The House decided that the status of a Member-elect was not affected by the constitutional requirement (I, 499), the theory being advanced that the status of the Member-elect is distinguished from the status of the Member who has qualified (I, 184). And a Member-elect, who continued in an office after his election but resigned before taking his seat, was held entitled to the seat (I, 497, 498). But when a Member-elect held an incompatible office after the meeting of Congress he was held to have disqualified himself (I, 492). In other words, the Member-elect may defer until the meeting of Congress his choice between the seat and an incompatible office (I, 492).

§ 100. Relation of contestants to incompatible offices.

The House has manifestly leaned to the idea that a contestant holding an incompatible office need not make his election until the House has declared him entitled to the seat (I, 505). Although a contestant had accepted and held a State office in violation of the state constitution, if he were really elected a Congressman, the House did not treat his contest as abated (II, 1003). Where a Member had been appointed to an incompatible office a contestant not found to be elected was not admitted to fill the vacancy (I, 807).

§ 101. Procedure of the House when incompatible offices are accepted.

Where a Member has accepted an incompatible office, the House has assumed or declared the seat vacant (I, 501, 502; VI, 65). In the cases of Baker and Yell, the Elections Committee concluded that the acceptance of a commission as an officer of volunteers in the national army vacated the seat of a Member (I, 488), and in another similar case the Member was held to have forfeited his right to a seat (I, 490). The House has seated a person bearing regular credentials on ascertaining that his predecessor in the same Congress had accepted a military office (I, 572). But usually the House by resolution formally declares the seat vacant (I, 488, 492). A Member-elect may defer until the meeting of Congress his choice between the seat and an incompatible office (I, 492). But when he retains the incompatible office and does not qualify, a vacancy has been held to exist (I, 500). A resolution excluding a Member who has accepted an incompatible office may be agreed to by a majority vote (I, 490). A Member charged with acceptance of an incompatible office was heard in his own behalf during the debate (I, 486).

Where it was held in federal court that a Member of Congress may not hold a commission in the Armed Forces Reserve under this clause, the U.S. Supreme Court reversed on other grounds, the plaintiff's lack of standing to maintain the suit. Reservists Committee to Stop the War *v.* Laird, 323 F. Supp. 833 (1971), aff'd, 595 F.2d 1075 (1972), rev'd on other grounds, 418 U.S. 208 (1974).

SECTION 7. [1] All Bills for raising Revenue shall originate in the House of Representatives; but the Senate may propose or concur with Amendments as on other Bills.

§ 102. Bills raising revenue to originate in the House.

This provision has been the subject of much discussion (II, 1488, 1494). In the earlier days the practice was not always correct (II, 1484); but in later years the House has insisted on its prerogative and the Senate has often shown reluctance to infringe thereon (II, 1482, 1483, 1493). In several instances, however, the subject has been matter of contention, conference (II, 1487, 1488), and final disagreement (II, 1485, 1487, 1488). Sometimes, however, when the House has questioned an invasion of prerogative, the Senate has receded (II, 1486, 1493). The disagreements have been especially vigorous over the right of the Senate to concur with amendments (II, 1489), and while the Senate has acquiesced in the sole right of the House to originate revenue bills, it has at the same time held to a broad power of amendment (II, 1497-1499). The House has frequently challenged the Senate on this point (II, 1481, 1491, 1496; Sept. 14, 1965, p. 23632). When the House has conceived that its prerogative has been invaded, it has ordered the bill to be returned to the Senate (II, 1493-1495; VI, 317; March 30, 1937, p. 2930; H. Res. 598, July 2, 1960, p. 15818; H. Res. 831, Oct. 10, 1962, p. 23014; H. Res. 397, May 20, 1965, p. 11149; H. Res. 478, Nov. 8, 1979, p. 31518; H. Res. 195, May 17, 1983, p. ——; Oct. 1, 1985, p. 25418; June 16, 1988, p. ——; June 21, 1988, p. ——; Sept. 23, 1988, p. ——; Sept. 28, 1988, p. ——; Oct. 21, 1988, p. ——; Oct. 21, 1988, p. ——), or declined to proceed further with it (II, 1485). A bill raising revenue incidentally was held not to infringe upon the Constitutional prerogative of the House to originate revenue legislation (VI, 315). Discussion of differentiation between bills for the purpose of raising revenue and bills which incidentally raise revenue (VI, 315). A revenue question was not objected to until the stage of conference (II, 1942; VI, 314). A question relating to the invasion of the Constitutional prerogatives of the House by a Senate amendment may be raised at any time when the House is in possession of the papers, and the question has been presented pending the motion to call up a conference report on the bill (June 20, 1968, pp. 17970, 17977; Aug. 19, 1982, p. 22127). On January 16, 1924, p. 1027, the Senate decided that a bill proposing a gasoline tax in the District of Columbia should not originate in the Senate (VI, 316). The House returned to the Senate: a Senate passed bill providing for the sale of Conrail and containing provisions relating to the tax treatment of the sale, notwithstanding inclusion in that bill of a "disclaimer" section requiring all revenue provisions therein to be contained in separate legislation originating in the House (Sept. 25, 1986, p. ——); a Senate passed bill prohibiting the importation of commodities subject to tariff (July 30, 1987, p. ——); a Senate-passed bill banning all imports from Iran, a tariff measure as affecting revenue from dutiable imports (June 16, 1988, p. ——); a Senate-passed bill dealing with the tax treatment of income derived from the exercise of Indian treaty fishing rights (June 21, 1988, p. ——).

Clause 5(b) of Rule XXI, added in the 98th Congress, prohibits consideration of any amendment, including any Senate amendment, proposing a tax or tariff measure during consideration of a bill or joint resolution reported by a committee not having that jurisdiction (H. Res. 5, Jan. 3, 1983, p. 34).

For discussion as to the prerogatives of the House under this clause, and discussion of the prerogatives of the House to originate appropriation bills, see Deschler's Precedents Ch. 13. Decisions of the Supreme Court of the United States:

§ 103. Decisions of the court.

Field *v.* Clark, 143 U.S. 649 (1892); Twin City Bank *v.* Nebeker, 167 U.S. 196 (1897); Millard *v.* Roberts, 202 U.S. 429 (1906); Rainey *v.* United States, 232 U.S. 310 (1914); Flint *v.* Stone Tracy Co., 220 U.S. 107 (1911).

§ 104. Approval and disapproval of bills by the President.

2 Every Bill which shall have passed the House of Representatives and the Senate, shall, before it become a Law, be presented to the President of the United States; If he approve he shall sign it, but if not he shall return it, with his Objections to that House in which it shall have originated, who shall enter the Objections at large on their Journal, and proceed to reconsider it. If after such Reconsideration two thirds of that House shall agree to pass the Bill, it shall be sent, together with the Objections, to the other House, by which it shall likewise be reconsidered, and if approved by two thirds of that House, it shall become a Law. But in all such Cases the Votes of both Houses shall be determined by Yeas and Nays, and the Names of the Persons voting for and against the Bill shall be

entered on the Journal of each House respectively. * * *.

§ 105. The act of approval.

Under the usual practice, bills are considered to have been "presented to the President" at the time they are delivered to the White House. In 1959, bills delivered to the White House while the President was abroad were "held for presentation to the President upon his return to the United States" by the White House. The United States Court of Claims held, in Eber Bros. Wine and Liquor Corp. *v.* United States, 337 F.2d 624 (1964), cert. denied, 380 U.S. 950 (1965), that where the President had determined, with the informal acquiescence of leaders of Congress, that bills from the Congress were to be received at the White House only for presentation to him upon his return to the United States and the bill delivered to the White House was so stamped, the presidential veto of the bill more than 10 days after delivery to the White House but less than 10 days after his return to the country was timely. The 89th Cong., 2d Session, adjourned sine die while President Johnson was on an Asian tour and receipts for bills delivered to the White House during that time were marked in like manner. The approval of a bill by the President of the United States is valid only with his signature (IV, 3490). Prior to the adoption of the twentieth amendment to the Constitution, at the close of a Congress, when the two Houses prolonged their sessions into the forenoon of March 4, the approvals were dated on the prior legislative day, as the legislative portion of March 4 belonged to the term of the new Congress. In one instance, however, bills signed on the forenoon of March 4 were dated as of that day with the hour and minute of approval given with the date (IV, 3489). The twentieth amendment to the Constitution changed the date of meeting of the Congress to January 3d. The act of President Tyler in filing with a bill an exposition of his reasons for signing it was examined and severely criticized by a committee of the House (IV, 3492); and in 1842 a committee of the House discussed the act of President Jackson in writing above his signature of approval a memorandum of his construction of the bill (IV, 3492). But where the President has accompanied his message announcing the approval with a statement of his reasons there has been no question in the House (IV, 3491). The statutes require that bills signed by the President shall be received by the Administrator of General Services and deposited in his office (1, U.S.C. 106a). Formerly these bills were received by the Secretary of State (IV, 3485) and deposited in his office (IV, 3429).

§ 106. Notice of approval sent by message.

Notice of the signature of a bill by the President is sent by message to the House in which it originated (VII, 1089) and that House informs the other (IV, 3429). But this notice is not necessary to the validity of the act (IV, 3495). Sometimes, at the close of a Congress the President informs the House of such bills as he has approved and of such as he has allowed to fail (IV. 3499–3502). In one instance he communicated his omission to sign a bill through the committee appointed to notify him that Congress was about to adjourn (IV, 3504). A bill that had not actually passed having been signed by the President, he disregarded it and a new bill was passed (IV, 3498). Messages of the President giving notice of bills approved are entered in the Journal and published in the Congressional Record (V, 6593).

§ 107. Disapproval (or veto) of bills.

A message withholding approval of a bill, called a veto message, is sent to the House in which the bill originated; but it has been held that such a message may not be returned to the President on his request after it has been laid before the Senate (IV, 3521). Instance where a veto message which had not been laid before the House was returned to the President on his request (Aug. 1, 1946, p. 10651). A vetoed bill received in the House by way of the Senate is considered as if received directly from the President and supersedes the regular order of business (IV, 3537; VII, 1109). A veto message may not be read in the absence of a quorum, even though the House be about to adjourn sine die (IV, 3522; VII, 1094); but the message may be read and acted on at the next session of the same Congress (IV, 3522). When the President has been prevented by adjournment from returning a bill with his objections he has sometimes at the next session communicated his reasons for not approving (V, 6618–6620).

§ 108. Consideration of a vetoed bill in the House.

It is the usual but not invariable rule that a bill returned with the objections of the President shall be voted on at once (IV, 3534–3536) and when laid before the House the question on the passage is considered as pending and no motion from the floor is required (VII, 1097–1099), but it has been held that the constitutional mandate that "the House shall proceed to consider" means that the House shall immediately proceed to consider it under the rules of the House, and that the ordinary motions under the rules of the House—to refer, to commit, or to postpone to a day certain—are in order (IV, 3542–3550; VII, 1100, 1105, 1113; Speaker Wright, Aug. 3, 1988, p. ——), and are debatable under the hour rule (VIII, 2740). Although under clause 4, Rule XVI, and under the precedents the motion for the previous question takes precedence over motions to postpone or to refer when a question is under debate, where the Speaker has laid before the House a veto message from the President but has not yet stated the question to be on overriding the veto, that question is not "under debate" and the motion for the previous question does not take precedence (Speaker Wright, Aug. 3, 1988; Procedure, ch. 24, § 15.8). A resolution asserting that to recognize for a motion to refer a veto message before stating the question on overriding the veto would interfere with the constitutional prerogative of the House to proceed to that question, and directing the Speaker to state the question on overriding the veto as pending before recognizing for a motion to refer, did not give rise to a question of the privileges of the House (Speaker Wright, Aug. 3, 1988, p. ——). A motion to refer a vetoed bill, either with or without the message, has been held allowable within the constitutional mandate that the House "shall proceed to reconsider" (IV, 3550; VII, 1104, 1105, 1108, 1114). But while the ordinary motion to refer may be applied to a vetoed bill, it is not in order to move to recommit it pending the demand for the previous question or after it is ordered (IV, 3551; VII, 1102). When a veto message is before the House for consideration de novo or as unfinished business, a motion to refer the message to committee takes precedence over the question of passing the bill, the objections of the President to the contrary notwithstanding (Deschler's Precedents, ch. 24, sec. 15.8; Oct. 25, 1983, p. ——), but the motion to refer may be laid on the table (Oct. 25, 1983, p. ——). A vetoed bill having been rejected by the House, the message was referred (IV, 3552; VII, 1103). Committees to which vetoed bills have been referred have sometimes neglected to report (IV, 3523, 3550, footnotes; VII, 1108, 1114). A vetoed bill may be laid on the table (IV, 3549; VII, 1105), but it is still highly privileged and a motion to take it from the table is in order at any time (IV, 3550; V, 5439). Also a motion to discharge a committee from the consideration of such a bill is privileged (IV, 3532; Aug. 4, 1988, p. ——), but that motion is subject to the motion to lay on the table (Sept. 7, 1965, pp. 22958-9; Aug. 4, 1988, p. ——). While a vetoed bill is always privileged, the same is not true of a bill reported in lieu of it (IV, 3531; VII, 1103).

§ 109. Action on a vetoed bill.

If two-thirds of the House to which a bill is returned with the President's objections agree to pass it, and then two-thirds of the other House also agree, it becomes a law (IV, 3520). The yeas and nays are required to pass a bill over the President's veto (Art. I, § 7, Const.; IV, 2726, 3520; VII, 1110). The two-thirds vote required to pass the bill is two-thirds of the Members present and voting and not two-thirds of the total membership of the House (IV, 3537, 3538; Missouri Pac. Ry. Co. *v.* Kansas, 248 U.S., 276 [1919]). Only Members voting should be considered in determining whether two-thirds voted in the affirmative (VII, 1111). The motion to reconsider may not be applied to the vote on reconsideration of a bill returned with the objections of the President (V, 5644; VIII, 2778).

It is the practice for one House to inform the other by message of its decision that a bill returned with the objections of the President shall not pass (IV, 3539-3541). A bill passed notwithstanding the objections of the President is sent by the presiding officer of the House which last acts on it to the Administrator of General Services who receives it and deposits it in his office (1 U.S.C. 106a). Formerly these bills were sent to the Secretary of State (IV, 3524) and deposited in his office (IV, 3485).

A bill incorrectly enrolled has been recalled from the President, who

§ 110. Errors in bills sent to the President.

erased his signature (IV, 3506). Bills sent to the President but not yet signed by him are sometimes recalled by concurrent resolution of the two Houses (IV, 3507-3509; VII, 1091; Sept. 4, 1962, p. 18405; May 6, 1974, p. 13076), and amended; but this proceeding is regarded as irregular (IV, 3510-3518). When the two Houses of Congress request the President by concurrent resolution to return an enrolled bill delivered to him and the President honors the request, the ten-day period under this clause runs anew from the time the bill is re-enrolled and is again presented to the President. Thus, in the 93d Congress the President returned on May 7, 1974 a bill pursuant to the request of Congress (H. Con. Res. 485, May 6, 1974, p. 13076). The bill was again enrolled, presented to the President on May 7, and marked "received May 7" at the White House. An error in an enrolled bill that has gone to the President may also be corrected by a joint resolution (IV, 3519; VII, 1092). In the 99th Congress, two enrollments of a continuing appropriation bill for FY 1987 were presented to and signed by the President, the second correcting an omission in the first. (See Public Laws 99-500 and 99-591.)

Decisions of the Supreme Court of the United States:

La Abra Silver Mining Co. *v.* United States, 175 U.S. 423 (1899); Gardner *v.* Collector, 73 U.S. (6 Wall.) 499 (1868); Matthews *v.* Zane, 20 U.S. (7 Wheat.) 164 (1822); Lapeyre *v.* United States, 84 U.S. (17 Wall.) 191 (1873); Missouri Pacific Railway Co. *v.* Kansas, 248 U.S. 276 (1919); Edwards *v.* United States, 286 U.S. 482 (1932); Wright *v.* United States, 302 U.S. 583 (1938).

§ 111. Bills which become laws without the President's approval.

* * * If any Bill shall not be returned by the President within ten Days (Sundays excepted) after it shall have been presented to him, the Same shall be a Law, in like Manner as if he had signed it, unless the Congress by their Adjournment prevent its Return, in which Case it shall not be a Law.

A bill signed by the President within ten days (Sunday excepted) after it has been presented to him becomes a law even though such signing takes place when Congress is not in session, whether during the period of an adjournment to a day certain or after the final adjournment of a session. Presidents currently sign bills after sine die adjournment but within ten days after their receipt. President Truman signed several bills passed in the Eighty-first Congress after the convening of the Eighty-second Congress but within ten days (Public Laws 910-921, 81st Cong., 2d Sess.; 64 Stat. 1221-1257); and President Reagan approved bills passed in the Ninety-seventh Congress which were presented after the convening of the Ninety-eighth Congress (Public Law 97-419 et seq.). It was formerly contended that the President might not approve bills during a recess (IV, 3493, 3494), and in one instance, in 1864, when the President signed a bill after final adjournment of Congress but within ten days grave doubts were raised and an adverse report was made by a House committee (IV, 3497). Later opinions of the Attorney General have been to the effect that the President has the power to approve bills within ten days after they have been presented to him during the period of an adjournment to a day certain (IV, 3496) and after an adjournment sine die (VII, 1088). The Supreme Court has held valid as laws bills signed by the President within ten days during a recess for a specified time (La Abra Silver Mining Co. *v.* U.S., 175 U.S. 451 [1899]; IV, 3495) and also those signed after an adjournment sine die (Edwards *v.* U.S., 286 U.S. 482 [1932]).

§ 112. The pocket veto.

A bill which is passed by both Houses of Congress during the first regular session of a Congress and presented to the President less than ten days (Sundays excepted) before the sine die adjournment of that session, but is neither signed by the President, nor returned by him to the House in which it originated, does not become a law ("The Pocket Veto Case," 279 U.S. 655 [1929]; VII, 1115). President Truman during an adjournment to a day certain pocket vetoed several bills passed by the Eighty-first Congress and also, after the convening of the Eighty-second Congress, pocket vetoed one bill passed in the Eighty-first Congress. The Supreme Court has held that the adjournment of the House of origin for not exceeding three days while the other branch of the Congress remained in session, did not prevent a return of the vetoed bill to the House of origin (Wright *v.* U.S., 302 U.S. 583 [1938]).

§ 113. Effect of adjournment to a day certain.

Doubt has existed as to whether a bill which remains with the President ten days without his signature, Congress meanwhile before the tenth day having adjourned to a day certain, becomes a law (IV, 3483, 3496; VII, 1115); an opinion of the Attorney General in 1943 stated that under such circumstances a bill not signed by the President did not become a law (40 Ops. Atty. Gen. 274, July 16, 1943). However, more recently, where a Member of the Senate challenged in federal court the effectiveness of such a pocket veto, a United States Court of Appeals held that a Senate bill could not be pocket-vetoed by the President during an "intrasession" adjournment of Congress to a day certain for more than three days, where the Secretary of the Senate had been authorized to receive Presidential messages during such adjournment. Kennedy *v.* Sampson, 511 F.2d 430 (D.C. Cir., 1974). See also Kennedy *v.* Jones, 412 F. Supp. 353 (D.D.C. 1976). Following a consent decree in this case, it was announced that President Ford would utilize a "return" veto, subject to override, in intersession and intrasession adjournments where authority exists for the appropriate House to receive such messages notwithstanding the adjournment.

In the 93d Congress, the President returned a House bill without his signature to the Clerk of the House, who had been authorized to receive messages from the President during an adjournment to a day certain, and the President asserted in his veto message that he had "pocket vetoed" the bill during the adjournment of the House to a day certain. The House regarded the President's return of the bill without his signature as a veto within the meaning of article I, section 7 of the Constitution and proceeded to reconsider and to pass the bill over the President's veto, after postponing consideration to a subsequent day (motion to postpone, Nov. 18, 1974, p. 36246; veto override, Nov. 20, 1974, p. 36621). Subsequently, on November 21, 1974, the Senate also voted to override the veto (p. 36882) and pursuant to 1 U.S.C. 106a the Enrolling Clerk of the Senate forwarded the bill to the Archives for publication as a public law. The Administrator of General Services at the Archives, upon instructions from the Department of Justice, declined to promulgate the bill as public law on the day received. The question as to the efficacy of the Congressional action in passing the bill over the President's veto was mooted when the House and Senate passed on November 26, 1974 (pp. 37406, 37603), an identical bill which was signed into law on December 7, 1974 (Public Law 93-516). For a discussion of the constitutionality of intersession or intrasession pocket vetoes see Kennedy, "Congress, The President, and The Pocket Veto," 63 Va. L. Rev. 355 (1977).

Decisions of the Supreme Court of the United States:

§ 114. Decisions of the court.

La Abra Silver Mining Co. *v.* United States, 175 U.S. 423 (1899); Wilkes County *v.* Coler, 180 U.S. 506; the Pocket Veto Case, 279 U.S. 655 (1929); Edwards *v.* United States, 286 U.S. 482 (1932); Wright *v.* United States, 302 U.S. 583 (1938); Burke *v.* Barnes (No. 85-781, January 14, 1987) (vacating and remanding 759 F.2d 21 as moot).

§ 115. As to presentation of orders and resolutions for approval.

3 Every Order, Resolution, or Vote to which the Concurrence of the Senate and House of Representatives may be necessary (except on a question of Adjournment) shall be presented to the President of the United States; and before the Same shall take Effect, shall be approved by him, or being disapproved by him, shall be repassed by two thirds of the Senate and House of Repre-

sentatives, according to the Rules and Limitations prescribed in the Case of a Bill.

It has been settled conclusively that a joint resolution proposing an amendment to the Constitution should not be presented to the President for his approval (V, 7040; Hollingsworth *v.* Virginia, 3 U.S. [3 Dall.] 378 [1798]). Such joint resolutions, after passage by both Houses, are presented to the Administrator of General Services (1 U.S.C. 106b). Although the requirement of the Constitution seems specific, the practice of Congress has been to present to the President for approval only such concurrent resolutions as are legislative in effect (IV, 3483, 3484) which is not within the scope of the modern form of concurrent resolutions. See section 192, infra, for a discussion of Presidential approval of a joint resolution extending the period for State ratification of a constitutional amendment already submitted to the States. See sec. 1013, infra, for discussion of "Congressional Disapproval" provisions contained in public laws.

Decisions of the Supreme Court of the United States:

§ 116. Decisions of the Court.

Field *v.* Clark, 143 U.S. 649 (1892); United States *v.* Ballin, 144 U.S. 1 (1892); Fourteen Diamond Rings *v.* United States, 183 U.S. 176 (1901). INS *v.* Chadha, 103 S.Ct. 2764 (1983); Consumer's Union, Inc. *v.* FTC, 103 S.Ct. 3556 (1983); Consumer Energy Council of America *v.* FERC, 103 S.Ct. 3556 (1983).

§ 117. The revenue power.

SECTION 8. The Congress shall have Power [1] To lay and collect Taxes, Duties, Imposts and Excises, to pay the Debts and provide for the common Defence and general Welfare of the United States; but all Duties, Imposts and Excises shall be uniform throughout the United States;

§ 118. The borrowing power.

[2] To borrow Money on the credit of the United States:

§ 119. Power over commerce.

[3] To regulate Commerce with foreign Nations, and among the several States, and with the Indian Tribes;

§ 120. Naturalization and bankruptcy.

[4] To establish an uniform Rule of Naturalization, and uniform Laws on the subject of Bankruptcies throughout the United States;

§ 121. Coinage, weight, and measures.

[5] To coin Money, regulate the Value thereof, and of foreign Coin, and fix the Standard of Weights and Measures;

§ 122. Conterfeiting.

[6] To provide for the Punishment of counterfeiting the Securities and current Coin of the United States;

§ 123. Post-offices and post-roads.

[7] To establish Post Offices and Post Roads;

§ 124. Patents and copyrights.

[8] To promote the Progress of Science and useful Arts, by securing for limited Times to Authors and Inventors the exclusive Right to their respective Writings and Discoveries;

§ 125. Inferior courts.

[9] To constitute Tribunals inferior to the supreme Court;

§ 126. Piracies and offenses against law of nations.

[10] To define and punish Piracies and Felonies committed on the high Seas, and Offenses against the Law of Nations;

§ 127. Declarations of war and maritime operations.

[11] To declare War, grant Letters of Marque and Reprisal, and make Rules concerning Captures on Land and Water;

§ 128. War powers of Congress and the President.

In the 93d Congress, the Congress passed over the President's veto Public Law 93-148, relating to the power of Congress to declare war under this clause and the power of the President as Commander in Chief under art. II, sec. 2, clause 1 (§ 178, infra). The law requires that the President report to Congress on the introduction of United States Armed Forces in the absence of a declaration of war. The President must terminate use of the Armed Forces unless Congress, within sixty calendar days after a report is submitted or is required to be submitted, (1) declares war or authorizes use of the Armed Forces; (2) extends by law the sixty-day period; or (3) is physically unable to meet as result of armed attack. The Act also provided that Congress could adopt a concurrent resolution requiring the removal of Armed Forces engaged in foreign hostilities, a provision which should be read in light of INS *v.* Chadha, 103 S.Ct. 2764 (1983). Sections 6 and 7 of the act provide congressional procedures for joint resolutions, bills and concurrent resolutions introduced pursuant to the provisions of the act. For further discussion of that Act, and war powers generally, see Deschler's Precedents Ch. 13.

§ 129. Raising and support of armies.

12 To raise and support Armies, but no Appropriation of Money to that Use shall be for a longer Term than two Years;

§ 130. Provisions for a navy.

13 To provide and maintain a Navy;

§ 131. Land and naval forces.

14 To make Rules for the Government and Regulation of the land and naval Forces;

§ 132. Calling out the militia.

15 To provide for calling forth the Militia to execute the Laws of the Union, suppress Insurrections and repel Invasions;

§ 133. Power over militia.

16 To provide for organizing, arming, and disciplining, the Militia, and for governing such Part of them as may be employed in the Service of the United States, reserving to the States respectively, the Appointment of the Officers, and the Authority of training the Militia according to the discipline prescribed by Congress;

§ 134. Power over territory of the United States.

17 To exercise exclusive Legislation in all Cases whatsoever, over such District (not exceeding ten Miles square) as may, by Cession of particular States, and the Acceptance of Congress, become the Seat of the Government of the United States, and to exercise like Authority

over all Places purchased by the Consent of the Legislature of the State in which the Same shall be, for the Erection of Forts, Magazines, Arsenals, dock-Yards, and other needful Buildings;—And

§135. Congressional authority over the District of Columbia.

Congress has provided by law that "all that part of the territory of the United States included within the present limits of the District of Columbia shall be the permanent seat of government of the United States" (4 U.S.C. 71). Pursuant to its authority under this clause, Congress provided in 1970 for the people of the District of Columbia to be represented in the House of Representatives by a Delegate and for a Commission to report to the Congress on the organization of the government of the District of Columbia (Public Law 91–405, 84 Stat. 845). For the powers and duties of the Delegate from the District of Columbia, see Rule XII (§740, infra) and Deschler's Precedents Ch. 7, §3. In 1973, Congress passed the District of Columbia Self-Government and Governmental Reorganization Act, which reorganized the governmental structure of the District, provided a charter for local government subject to acceptance by a majority of the registered qualified voters of the District, delegated certain legislative powers to the District, and implemented certain recommendations of the Commission on the Organization of the Government of the District of Columbia (Public Law 93–198, 87 Stat. 774). Section 604 of that act provides for Congressional action on certain district matters by providing a procedure for approval and disapproval of certain actions by the District of Columbia Council. The section, as amended by Public Law 98–473, permits a highly privileged motion to discharge a joint resolution of approval or disapproval which has not been reported by the Committee on the District of Columbia within twenty calendar days after its introduction. (See §1013(A-4), infra.)

§136. General legislative power.

[18] To make all Laws which shall be necessary and proper for carrying into Execution the foregoing Powers, and all other Powers vested by this Constitution in the Government of the United States, or in any Department or Officer thereof.

§ 137. Migration or importation of persons.

SECTION 9. [1] The Migration or Importation of such Persons as any of the States now existing shall think proper to admit, shall not be prohibited by the Congress prior to the Year one thousand eight hundred and eight, but a Tax or duty may be imposed on such Importation, not exceeding ten dollars for each Person.

§ 138. Writ of habeas corpus.

[2] The Privilege of the Writ of Habeas Corpus shall not be suspended, unless when in Cases of Rebellion or Invasion the public Safety may require it.

§ 139. Bills of attainder and ex post facto laws.

[3] No Bill of Attainder or ex post facto Law shall be passed.

§ 140. Capitation and direct taxes.

[4] [No Capitation, or other direct, tax shall be laid, unless in Proportion to the Census or Enumeration herein before directed to be taken.]

This provision was changed in 1913 by the Sixteenth Amendment to the Constitution.

§ 141. Export duties.

[5] No Tax or Duty shall be laid on Articles exported from any State.

§ 142. Freedom of commerce.

[6] No Preference shall be given by any Regulation of Commerce or Revenue to the Ports of one State over those of another: nor shall Vessels bound to, or from, one State, be obliged to enter, clear, or pay Duties in another.

§ 143. Appropriations and accounting of public money.

[7] No Money shall be drawn from the Treasury, but in Consequence of Appropriations made by Law; and a regular Statement and Account of the

Receipts and Expenditures of all public Money shall be published from time to time.

§ 144. Titles of nobility and gifts from foreign states.

[8]No Title of Nobility shall be granted by the United States: And no Person holding any Office of Profit or Trust under them, shall, without the Consent of the Congress, accept of any present, Emolument, Office, or Title, of any kind whatever, from any King, Prince, or foreign State.

§ 145. Foreign gifts and decorations.

Consent has been granted to officers and employees of the government, under enumerated conditions, to accept certain gifts and decorations from foreign governments (Public Law 89-673; 80 Stat. 952, Oct. 15, 1966), and the adoption of this act largely has obviated the practice of passing private bills to permit the officer or employee to retain the award. However, where the Speaker (who was one of the officers empowered by that law to approve retention of decorations by Members of the House) was himself tendered an award from a foreign government, a private law (Private Law 91-244) was enacted to permit him to accept and wear the award so that he would not be in the position of reviewing his own application under the provisions of the law.

Public Law 95-105 amended the Foreign Gifts and Decorations Act (see 5 U.S.C. 7342 as amended) to designate the Committee on Standards of Official Conduct of the House of Representatives as the "employing agency" for the House with respect to foreign gifts and decorations received by Members and employees; under that statute the Committee may approve the acceptance of foreign decorations and has promulgated regulations to carry out the Act with respect to Members and employees (Jan. 23, 1978, pp. 452-3), and disposes of foreign gifts which may not be retained by the donee.

Opinions of Attorneys General:

Gifts from Foreign Prince (1902), 24 Op. Atty. Gen., 117; Foreign Diplomatic Commission (1871), 13 Op. Atty. Gen. 538; Marshal of Florida (1854), 6 Op. Atty. Gen. 409.

§ 146. States not to make treaties, coin money, pass ex post facto laws, impair contracts, etc.

SECTION 10. [1]No State shall enter into any Treaty, Alliance, or Confederation; grant Letters of Marque and Reprisal; coin Money; emit Bills of Credit; make any Thing but gold and silver Coin a Tender in Payment of Debts; pass any Bill of Attainder, ex post facto Law, or Law impairing the Obligation of Contracts, or grant any Title of Nobility.

§ 147. States not to lay imposts or duties.

[2] No State shall, without the Consent of the Congress, lay any Imposts or Duties on Imports or Exports, except what may be absolutely necessary for executing it's inspection Laws: and the net Produce of all Duties and Imposts, laid by any State on Imports or Exports, shall be for the Use of the Treasury of the United States; and all such Laws shall be subject to the Revision and Controul of the Congress.

§ 148. States not to lay tonnage taxes, make compacts, or go to war.

[3] No State shall, without the Consent of Congress, lay any Duty of Tonnage, keep Troops, or Ships of War in time of Peace, enter into any Agreement or Compact with another State, or with a foreign Power, or engage in War, unless actually invaded, or in such imminent Danger as will not admit of delay.

ARTICLE II.

§ 149. Terms of the President and Vice-President.

SECTION 1.[1] The executive Power shall be vested in a President of the United States of America. He shall hold his Office during the Term of four years, and together with the Vice President, chosen for the same Term, be elected, as follows:

§ 150. Commencement of President's term of office.

George Washington took the oath of office, as the first President on April 30, 1789 (III, 1986). The two Houses of the First Congress found, after examination by a joint committee, that by provisions made in the Federal Constitution and by the Continental Congress, the term of the President had, notwithstanding begun on March 4, 1789 (I, 3). The twentieth amendment, declared to have been ratified on February 6, 1933, provides that Presidential terms shall end and successor terms shall begin at noon on January 20. Thus, Franklin D. Roosevelt's first term began on March 4, 1933, but ended at noon on January 20, 1937. Formerly, when March 4 fell on Sunday, the public inauguration of the President occurred at noon on March 5 (III, 1996; VI, 449). Following ratification of the XXth Amendment, the first time inauguration day fell on Sunday was January 20, 1957, and Dwight David Eisenhower took the oath for his second term in a private ceremony at the White House on that day followed by a public inauguration ceremony on the steps of the East Front of the Capitol on Monday, January 21, 1957. A similar scenario was followed at the beginning of President Reagan's second term, with the oath being given at the White House on January 20, 1985, followed by a public ceremony on Monday, January 21, in the Rotunda of the Capitol. The twenty-second amendment provides that no person shall be elected President more than twice.

§ 151. Electors of President and Vice-President and their qualifications.

[2] Each State shall appoint, in such Manner as the Legislature thereof may direct, a Number of Electors, equal to the whole Number of Senators and Representatives to which the State may be entitled in the Congress; but no Senator or Representative, or Person holding an Office of Trust or Profit under the United States, shall be appointed an Elector.

§ 152. Questions as to qualifications of electors.

Questions of the qualifications of electors have arisen, and in one instance certain ones were found disqualified, but as their number was not sufficient to affect the result and as there was doubt as to what tribunal should pass on the question the votes were counted (III, 1941). In other cases there were objections, but the votes were counted (III, 1972–1974, 1979). In one instance an elector found to be disqualified resigned both offices, whereupon he was made eligible to fill the vacancy thus caused among electors (III, 1975).

[The Electors shall meet in their respective States and vote by Ballot for two Persons, of whom one at least shall not be an Inhabitant of the same State with themselves. And they shall make a List of all the Persons voted for, and of the Number of Votes for each; which List they shall sign and certify, and transmit sealed to the Seat of Government of the United States, directed to the President of the Senate. The President of the Senate shall, in the presence of the Senate and House of Representatives, open all the Certificates, and the Votes shall then be counted. The Person having the greatest Number of Votes shall be the President, if such Number be a majority of the whole Number of Electors appointed: and if there be more than one who have such Majority, and have an equal Number of Votes, then the House of Representatives shall immediately chuse by Ballot one of them for President; and if no Person have a Majority, then from the five highest on the List the said House shall in like manner chuse the President. But in chusing the President, the Votes shall be taken by States, the Representation from each State having one Vote; A quorum for this purpose shall consist of a Member or Members from two thirds of the States, and a Majority of all the States shall be necessary to a Choice. In every Case, after the Choice of the President, the Person having the greatest Number of Votes of the Electors shall be the Vice President. But if there should remain two or more who have equal Votes, the Senate shall chuse from them by Ballot the Vice-President.] This paragraph was superseded by the Twelfth Amendment.

§ 153. Time of choosing electors and time at which their votes are given.

[3] The Congress may determine the Time of chusing the Electors, and the Day on which they shall give their Votes; which Day shall be the same throughout the United States.

The time for choosing electors has been fixed on "the Tuesday next after the first Monday in November, in every fourth year;" and the electors in each State "meet and give in their votes on the first Monday after the second Wednesday in December next following their appointment, at such place in each State as the legislature of such State shall direct" (III, 1914; VI, 438; 3 U.S.C. 1, 7). The statutes also provide for transmitting to the President of the Senate certificates of the appointment of the electors and of their votes (III, 1915–1917; VI, 439; 3 U.S.C. 11).

§ 154. Qualifications of President of the United States.

[4] No Person except a natural born Citizen, or a Citizen of the United States, at the time of the Adoption of this

Constitution, shall be eligible to the Office of President; neither shall any Person be eligible to that Office who shall not have attained to the Age of thirty five Years, and been fourteen Years a Resident within the United States.

§ 155. Succession in case of removal, death, resignation, or disability of President and Vice-President.

[5] In Case of the Removal of the President from Office, or of his Death, Resignation, or Inability to discharge the Powers and Duties of the said Office, the Same shall devolve on the Vice President, and the Congress may by Law provide for the Case of Removal, Death, Resignation or Inability, both of the President and Vice President, declaring what Officer shall then act as President, and such Officer shall act accordingly, until the Disability be removed, or a President shall be elected.

§ 156. Resignation of the President.

Amendment XXV provides for filling a vacancy in the office of the Vice President and, when the President is unable to perform the duties of his office, for the Vice President to assume those powers and duties as Acting President. During the 93d Congress, President Richard M. Nixon resigned from office on August 9, 1974, by delivering a signed resignation to the office of the Secretary of State, pursuant to 3 U.S.C. 20. Pursuant to amendment XXV, Vice President Gerald R. Ford became President and the House and Senate confirmed his nominee, Nelson A. Rockefeller, to become Vice President (December 19, 1974, p. 41516).

Congress has also provided for the performance of the duties of the President in case of removal, death, resignation or inability, both of the President and Vice President (3 U.S.C. 19).

§ 157. Compensation of President.

[6] The President shall, at stated Times, receive for his Services, a Compensation, which shall neither be encreased nor diminished during the Period for which he shall have been elected, and he shall not receive

within that Period any other Emolument from the United States, or any of them.

The compensation of the President is fixed at $200,000 per annum (3 U.S.C. 102). In addition the law provides an expense allowance of $50,000 (3 U.S.C. 102; Public Law 91-1), and authorizes a travel allowance of not to exceed $100,000 (3 U.S.C. 103).

§ 158. Oath of the President.

[7] Before he enter on the Execution of his Office, he shall take the following Oath or Affirmation:—"I do solemnly swear (or affirm) that I will faithfully execute the Office of President of the United States, and will to the best of my Ability, preserve, protect and defend the Constitution of the United States."

§ 159. Inauguration of the President.

The taking of this oath, which is termed the inauguration, is made the occasion of certain ceremonies which are arranged for by a joint committee of the two Houses (III, 1998, 1999; VI, 451). For many years the oath was normally taken at the east portico of the Capitol, although in earlier years it was taken in the Senate Chamber or Hall of the House (III, 1986-1995). On March 4, 1909, owing to inclemency of the weather, the President-elect took the oath and delivered his inaugural address in the Senate Chamber (VI, 447). And when Vice-President Fillmore succeeded to the vacancy in the office of President, Congress being in session, he took the oath in the Hall of the House in the presence of the Senate and House (III, 1997). In 1945 Franklin D. Roosevelt, who had been elected for his fourth term as President, took the oath of office on the south portico at the White House. On August 9, 1974, Gerald R. Ford, who as Vice President succeeded to the Presidency following the resignation of President Nixon on that day, was sworn in in the East Room of the White House. The west front of the Capitol was first used for the inaugural ceremony for Ronald W. Reagan, Jan. 20, 1981. Because of extreme cold, the public administration of the oath was for the first time held in the Rotunda of the Capitol, rather than on the West Front, as scheduled, on January 21, 1985. Permission for such use was authorized by S. Con. Res. 144, 98th Congress.

SECTION 2. [1] The President shall be Commander in Chief of the Army and Navy of the United States, and of the Militia of the several States, when called into the actual Service of the United States; he may require the Opinion, in writing, of the principal Officer in each of the executive Departments, upon any Subject relating to the Duties of their respective Offices, and he shall have Power to grant Reprieves and Pardons for Offences against the United States, except in Cases of Impeachment.

§ 160. The President the Commander in Chief.

§ 161. Opinions of the President's advisers.

§ 162. President grants reprieves and pardons.

In the 93d Congress, the Congress passed over the President's veto Public Law 93-148, relating to the power of Congress to declare war under art. I, sec. 8, clause 11 (§ 127, supra) and the power of the President as Commander in Chief. For further discussion of the reports to Congress required and the procedure for Congressional action provided under Public Law 93-148, see § 128, supra.

§ 163. War powers of Congress and the President.

In 1974, President Ford exercised his power under the last phrase of this clause by pardoning former President Nixon for any crimes he might have committed during a certain period in office (Proclamation 4311, September 8, 1974). The former President had resigned following an impeachment inquiry in the House and the decision of the Committee on the Judiciary to report to the House recommending his impeachment by the House (August 20, 1974, p. 29219).

§ 164. Pardon of former President.

[2] He shall have Power, by and with the Advice and Consent of the Senate, to make Treaties, provided two thirds of the Senators present concur; and he shall nominate, and by and with the Advice and Consent of the Senate, shall appoint Ambassadors, other public

§ 165. President makes treaties.

§ 166. Appointing power of the President.

Ministers and Consuls, Judges of the Supreme Court, and all other Officers of the United States, whose Appointments are not herein otherwise provided for, and which shall be established by Law; but the Congress may by Law vest the Appointment of such inferior Officers, as they think proper, in the President alone, in the Courts of Law, or in the Heads of Departments.

The power of the President to appoint diplomatic representatives to foreign governments and to determine their rank is derived from the Constitution and may not be circumscribed by statutory enactments (VII, 1248). In Buckley *v.* Valeo, 424 U.S. 1 (1976) the Supreme Court held that any appointee exercising significant authority (not merely internal delegable authorities within the Legislative Branch) pursuant to the laws of the United States is an Officer of the United States and must therefore be appointed pursuant to this clause, and that Congress cannot by law vest such appointment authority in its own officers or require that Presidential appointments be subject to confirmation by both Houses.

§ 167. President's power to fill vacancies during recess of the Senate.

[3] The President shall have Power to fill up all Vacancies that may happen during the Recess of the Senate, by granting Commissions which shall expire at the End of their next Session.

§ 168. Messages from the President.

SECTION 3. He shall from time to time give to the Congress Information of the State of the Union, and recommend to their Consideration such Measures as he shall judge necessary and expedient; * * *

In the early years of the Government the President made a speech to Congress on its assembling (V, 6629), but in 1801 President Jefferson discontinued this practice and transmitted a message "in writing". This precedent was followed until April 8, 1913, when the custom of addressing Congress in person was resumed by President Wilson and, with the exception of President Hoover (VIII, 3333) has been followed generally by subsequent Presidents. Only messages of major importance are delivered in person. A message in writing is usually communicated to both Houses on the same day, but an original document accompanying can of course be sent to but one House (V, 6616, 6617). The President's State of the Union message delivered in person to the 95th Congress, 2d Session, together with separate hand-delivered written messages, were referred on motion to the Union Calendar and ordered printed (Jan. 19, 1978, p. 152). In early years confidential messages were often sent and considered in secret session of the House (V, 7251, 7252).

§ 169. Messages required by law.

By law (31 U.S.C. 1105) as amended by the Balanced Budget and Emergency Deficit Control Act of 1985 (Public Law 99-177)), the President is required to transmit the Budget to Congress on or before the first Monday after January 3 of each year. In addition, beginning with calendar year 1972, he is required to submit a supplemental budget summary for the ensuing fiscal year by June 1 of each year (Legislative Reorganization Act of 1970, Sec. 221; 84 Stat. 1140, 1169). Submission of the Economic Report of the President during the first twenty days of each regular session is also mandated by law (15 U.S.C. 1022). The Congressional Budget and Impoundment Control Act of 1974 (Public Law 93-344, 88 Stat. 297) requires the transmittal to Congress by the President of amendments and revisions related to the budget on or before April 10 and July 15 of each year (sec. 601). In addition, the Act provides for the transmittal of messages proposing rescissions and deferrals of budget authority (secs. 1012, 1013, 1014).

When the President has indicated that he will address Congress in person a concurrent resolution is passed by both Houses arranging for a joint session to receive the message. At the appointed hour the Members of the Senate arrive and occupy the three front rows of the House. The President of the Senate (the Vice President) sits to the right of the Speaker, but in the absence of the Vice President, the President pro tempore sits to the left of the Speaker (Nov. 27, 1963, p. 22838). The Speaker presides.

§ 170. Reception of messages from the President.

The ceremony of receiving a message in writing is simple (V, 6591), and may occur during consideration of a question of privilege (V, 6640–6642) or before the organization of the House (V, 6647–6649) and in the absence of a quorum (V, 6650; VIII, 3339; clause 6, Rule XV). But, with the exception of vetoes, messages are regularly laid before the House only at the time prescribed by the rule for the order of business (V, 6635–6638) within the discretion of the Speaker (VIII, 3341). While a message of the President is always read in full the latest rulings have not permitted the reading of the accompanying documents to be demanded as a matter of right (V, 5267–5271; VII, 1108). A concurrent resolution providing for a joint session to receive the President's message was held to be of the highest privilege (VIII, 335).

§ 171. Power of President as to convening and adjourning Congress.

* * * he may, on extraordinary Occasions, convene both Houses, or either of them, and in Case of Disagreement between them, with Respect to the Time of Adjournment, he may adjourn them to such Time as he shall think proper; * * *

In certain exigencies the President may convene Congress at a place other than the seat of government (I, 2; 2 U.S.C. 27). Congress has frequently been convened by the President (I, 10, 11; Nov. 17, 1947, p. 10578; July 26, 1948, p. 9362), and in one instance, when Congress had provided by law for meeting, the President called it together on an earlier day (I, 12). The Congress having adjourned on July 27, 1947, p. 10521, and on June 20, 1948, p. 9350, to a day certain, the President called it together on an earlier date than that to which it adjourned (Nov. 17, 1947, p. 10577, and July 26, 1948, p. 9362). There has been some discussion as to whether or not there is a distinction between a session called by the President and other sessions of Congress (I, 12, footnote).

§ 172. President receives ambassadors, executes the laws, and commissions officers.

* * * he shall receive Ambassadors and other public Ministers; he shall take Care That the Laws be faithfully executed, and shall Commission all the officers of the United States.

§ 173. Impeachment of civil officers.

SECTION 4. The President, Vice President, and all civil Officers of the United States, shall be removed from Office on Impeachment for, and Conviction of, Treason, Bribery, or other high Crimes and Misdemeanors.

§ 174. As to the officers who may be impeached.

In the Blount trial the managers contended that all citizens of the United States were liable to impeachment, but this contention was not admitted (III, 2315), and in the Bellknap trial both managers and counsel for respondent agreed that a private citizen, apart from offense in an office, might not be impeached (III, 2007). But resignation of the office, does not prevent impeachment for crime or misdemeanor therein (III, 2007, 2317, 2444, 2445, 2459, 2509). In Blount's case it was decided that a Senator was not a civil officer within the meaning of the impeachment provisions of the Constitution (III, 2310, 2316). Questions have also arisen as to whether or not the Congressional Printer (III, 1785), or a vice-consul-general (III, 2515), might be impeached. Proceedings for the impeachment of territorial judges have been taken in several instances (III, 2486, 2487, 2488), although various opinions have been given that such an officer is not impeachable (III, 2022, 2486, 2493). A committee of the House by majority vote held a Commissioner of the District of Columbia not to be a civil officer subject to impeachment under the Constitution (VI, 548).

§ 175. Nature of impeachable offenses.

As to what are impeachable offenses there has been much discussion (III, 2008, 2019, 2020, 2356,-2362, 2379–2381, 2405, 2406, 2410, 2498, 2510; VI, 455; Impeachment of Richard M. Nixon, President of the United States, Committee on the Judiciary, H. Rept. 93-1305, August 20, 1974, p. 29219; Associate Justice William O. Douglas, Final Report by the Special Subcommittee on H. Res. 920, Committee on the Judiciary, September 17, 1970). For a time the theory that indictable offenses only were impeachable was stoutly maintained and as stoutly denied (III, 2356, 2360–2362, 2379–2381, 2405, 2406, 2410, 2416); but on the tenth and eleventh articles of the impeachment of the President the House concluded to impeach for other than indictable offenses (III, 2418), and in the Swayne trial the theory was definitely abandoned (III, 2019). while there has not been definite concurrence in the claim of the managers in the trial of the President that an impeachable offense is any misbehavior that shows disqualification to hold and exercise the office, whether moral, intellectual, or physical (III, 2015), yet the House has impeached judges for improper personal habits (III, 2328, 2505), and in the impeachment of the President one of the articles charged him with "intemperate, inflammatory, and scandalous harangues" in public addresses, tending to the harm of the Government (III, 2420). There was no conviction under these charges except in the single case of Judge Pickering, who was charged with intoxication on the bench (III, 2328–2341). As to the impeachment of judges for other delinquencies, there has been much contention as to whether they may be impeached for any breach of good behavior (III, 2011, 2016, 2497), or only for judicial misconduct occurring in the actual administration of justice in connection with the court (III, 2010, 2013, 2017). The intent of the judge (III, 2014, 2382) as related to mistakes of the law, and the relations of intent to conviction have been discussed at length (III, 2014, 2381, 2382, 2518, 2519). The statutes make nonresidence of a judge an impeachable offense, and the House has taken steps to impeach for this cause (III, 2476, 2512). There has, however, been some question as to the power of Congress to make an impeachable offense (III, 2014, 2015, 2021, 2512). Usurpation of power has been examined several times in its relations as a cause for impeachment (III, 2404, 2508, 2509, 2516, 2517). There has also been discussion as to whether or not there is distinction between a misdemeanor and a high misdemeanor (III, 2270, 2367, 2492). Review of impeachments in Congress showing the nature of charges upon which impeachments have been brought and judgements of the Senate thereon (VI, 466).

§ 176. Later impeachment inquiries.

The articles of impeachment adopted by the House in 1936 against Judge Ritter charged a variety of judicial misconduct, including violations of criminal law; the seventh and general article, upon which Judge Ritter was convicted by the Senate, charged general misconduct to bring his court into scandal and disrepute and to destroy public confidence in his court and in the judicial system (Impeachment by the House, March 2, 1936, p. 3091; Conviction by the Senate, April 17, 1936, p. 5606). Following his conviction by the Senate, former Judge Ritter brought an action for back salary, contending that the Senate had tried and convicted him for non-impeachable offenses. The U.S. Court of Claims held that the Senate's power to try impeachments was exclusive and not subject to judicial review. Ritter *v.* United States, 84 Ct. Cls. 293 (1936), cert. denied, 300 U.S. 668 (1937).

In 1970, a special subcommittee of the Committee on the Judiciary considered charges of impeachment against Associate Justice Douglas of the Supreme Court. The subcommittee recommended against his impeachment but concluded that a federal judge could be impeached (1) for judicial conduct which is a serious dereliction from public duty and (2) for nonjudicial conduct which is criminal in nature (Associate Justice William O. Douglas, Final Report by the Special Subcommittee on H. Res. 920, Committee on the Judiciary, September 17, 1970).

In 1974, the Committee on the Judiciary investigated charges of impeachment against President Nixon, and determined to recommend his impeachment to the House. The President having resigned, the committee reported to the House without submitting a resolution of impeachment, and the House accepted the report by resolution (H. Res. 1333, August 20, 1974, p. 29361). The report of the committee included the text of the three articles of impeachment adopted by the committee. The committee had concluded that impeachable offenses need not be indictable offenses and had impeached the President (1) for violating his oath of office and his duty under the Constitution by preventing, obstructing, and impeding the administration of justice; (2) for engaging in a course of conduct violating the constitutional rights of citizens, impairing the administration of justice, and contravening the laws governing executive agencies; and (3) for failing to honor subpoenas issued by the Committee on the Judiciary in the course of its impeachment inquiry (Impeachment of Richard M. Nixon, President of the United States, Committee on the Judiciary, H. Rept. 93-1305, August 20, 1974, printed in full in the Congressional Record, August 22, 1974, p. 29219).

In 1986, for the first time since 1936, the House agreed to a resolution impeaching a federal district judge. Judge Harry Claiborne had been convicted of falsifying federal income tax returns. His final appeal was denied by the Supreme Court in April, and he began serving his prison sentence in May. Because he declined to resign, however, Judge Claiborne was still receiving his judicial salary and, absent impeachment, would resume the bench on his release from prison. Consequently, a resolution of impeachment was introduced on June 3, and on July 16, the Committee on the Judiciary reported to the House four articles of impeachment against Judge Claiborne. On July 22, the resolution was called up as a question of privilege and agreed to by a recorded vote of 406 yeas, 0 nays. After trial in the Senate, Judge Claiborne was convicted on three of the four articles of impeachment and removed from office on October 9, 1986.

In 1988, the House agreed to a resolution reported from the Committee on the Judiciary and called up as a question of the privileges of the House impeaching Federal district judge Alcee L. Hastings for high crimes and misdemeanors specified in 17 articles of impeachment, some of them addressing allegations on which the judge had been acquitted in a federal criminal trial (H. Res. 499, 100th Cong., Aug. 3, 1988, p. ——). No trial in the Senate was had before the adjournment of the 100th Congress. For a discussion of the continuance of impeachment proceedings in the succeeding Congress see § 620, infra.

For further discussion of impeachment proceedings, see Deschler's Precedents, Ch. 14.

ARTICLE III.

§ 177. The judges, their terms, and compensation.

SECTION 1. The judicial Power of the United States, shall be vested in one supreme Court, and in such inferior Courts as the Congress may from time to time ordain and establish. The Judges, both of the supreme and inferior Courts, shall hold their Offices during good Behaviour, and shall, at stated Times, receive for their Services, a Compensation, which shall not be diminished during their Continuance in Office.

§ 178. Extent of the judicial power.

SECTION 2. [1] The judicial Power shall extend to all Cases, in Law and Equity, arising under this Constitution, the

Laws of the United States, and Treaties made, or which shall be made, under their Authority;—to all Cases affecting Ambassadors, other public Ministers and Consuls;—to all Cases of admiralty and maritime Jurisdiction;—to Controversies to which the United States shall be a Party;—to Controversies between two or more States;—between a State and Citizens of another State;—between Citizens of different States;—between Citizens of the same State claiming Lands under Grants of different States, and between a State, or the Citizens thereof, and foreign States, Citizens or Subjects.

§ 179. Original and appellate jurisdiction of the Supreme Court.

[2] In all Cases affecting Ambassadors, other public Ministers and Consuls, and those in which a State shall be Party, the supreme Court shall have original Jurisdiction. In all the other Cases before mentioned, the supreme Court shall have appellate Jurisdiction, both as to Law and Fact, with such Exceptions, and under such Regulations as the Congress shall make.

§ 180. Places of trial of crimes by jury.

[3] The Trial of all Crimes, except in Cases of Impeachment, shall be by Jury; and such Trial shall be held in the State where the said Crimes shall have been committed; but when not committed within any State, the Trial shall be at such Place or Places as the Congress may by Law have directed.

§ 181. Treason against the United States.

SECTION 3.[1] Treason against the United States, shall consist only in levying War against them, or in adhering to their Enemies, giving them Aid and Comfort. No Person shall be convicted of Treason unless on the Testimony of two Witnesses to the same overt Act, or on Confession in open Court.

§ 182. Punishment for treason.

[2] The Congress shall have Power to declare the Punishment of Treason, but no Attainder of Treason shall work Corruption of Blood, or Forfeiture except during the Life of the Person Attainted.

ARTICLE IV.

§ 183. Each State to give credit to acts, records, etc., of other States.

SECTION 1. Full Faith and Credit shall be given in each State to the Public Acts, Records, and judicial Proceedings of every other State. And the Congress may by general Laws prescribe the Manner in which such Acts, Records and Proceedings shall be proved, and the Effect thereof.

§ 184. Privileges and immunities of citizens.

SECTION 2.[1] The Citizens of each State shall be entitled to all Privileges and Immunities of Citizens in the several States.

§ 185. Extradition for treason, felony or other crime.

[2] A Person charged in any State with Treason, Felony, or other Crime, who shall flee from Justice, and be found in another State, shall on Demand of the executive Authority of the State from which he fled, be delivered up, to be removed to the State having Jurisdiction of the Crime.

§ 186. Persons held to service or labor.

[3] No Person held to Service or Labour in one State, under the Laws thereof, escaping into another, shall, in Conse-

quence of any Law or Regulation therein, be discharged from such Service or Labour, but shall be delivered up on Claim of the Party to whom such Service or Labour may be due.

§ 187. Admission and formation of new States.

SECTION 3.[1] New States may be admitted by the Congress into this Union; but no new State shall be formed or erected within the Jurisdiction of any other State; nor any State be formed by the Junction of two or more States, or Parts of States, without the Consent of the Legislatures of the States concerned as well as of the Congress.

§ 188. Power of Congress over territory and other national property.

[2] The Congress shall have Power to dispose of and make all needful Rules and Regulations respecting the Territory or other Property belonging to the United States; and nothing in this Constitution shall be so construed as to Prejudice any Claims of the United States, or of any particular State.

The Court of Appeals for the District of Columbia Circuit has held that the property clause does not prohibit the transfer of United States property to foreign nations through self-executing treaties. Edwards *v.* Carter, 580 F.2d 1055 (1978), cert. denied, 436 U.S. 907 (1978).

§ 189. Republican form of government and protection from domestic violence guaranteed to the States.

SECTION 4. The United States shall guarantee to every State in this Union a Republican Form of Government, and shall protect each of them against Invasion; and on Application of the Legislature, or of the Executive (when the Legislature cannot be convened) against domestic violence.

ARTICLE V.

§ 190. Amendments to the Constitution.

The Congress, whenever two thirds of both Houses shall deem it necessary, shall propose Amendments to this Constitution, or, on the Application of the Legislatures of two thirds of the several States, shall call a Convention for proposing Amendments, which, in either Case, shall be valid to all Intents and Purposes, as Part of this Constitution, when ratified by the Legislatures of three fourths of the several States, or by Conventions in three fourths thereof, as the one or the other Mode of Ratification may be proposed by the Congress; Provided that no Amendment which may be made prior to the Year One thousand eight hundred and eight shall in any Manner affect the first and fourth Clauses in the Ninth Section of the first Article; and that no State, without its Consent, shall be deprived of its equal Suffrage in the Senate.

§ 191. Form of and action on amendments to the Constitution.

Amendments to the Constitution are proposed in the form of joint resolutions, which have their several readings and are enrolled and signed by the presiding officers of the two Houses (V, 7029, footnote), but are not presented to the President for his approval (V, 7040, footnote § 115; Hollingsworth *v.* Virginia, 3 U.S. [3 Dall.] 378 [1798]). They are filed with the Administrator of General Services who, under the law (1 U.S.C. 106b; 1 U.S.C. 112), has the responsibility for the certification and publication of such amendments, once they are ratified by the States. Under the earlier procedure, the two houses sometimes requested the President to transmit to the States certain proposed amendments (V, 7041, 7043), but a concurrent resolution to that end was without privilege (VIII, 3508). The President notified Congress by message of the promulgation of the ratification of a constitutional amendment (V, 7044).

§ 192. The two-thirds vote on proposed amendments.

The vote required on a joint resolution proposing an amendment to the Constitution is two-thirds of those voting, a quorum being present, and not two-thirds of the entire membership (V, 7027, 7028; VIII, 3503). The majority required to pass a constitutional amendment, like the majority required to pass a bill over the President's veto (VII, 1111) and the majority required to adopt a motion to suspend the rules (Dec. 16, 1981, pp. 31850, 31851, 31855, 31856), is two-thirds of those Members voting either in the affirmative or negative, a quorum being present, and Members who only indicate that they are "present" are not counted in this computation (Speaker pro tempore Wright, Nov. 15, 1983, p. ——). The requirement of the two-thirds vote applies to the vote on the final passage and not to amendments (V, 7031, 7032; VIII, 3504), or prior stages (V, 7029, 7030), but is required where the House votes on agreeing to Senate amendments (V, 7033, 7034; VIII, 3505), or on agreeing to a conference report (V, 7036). One House having, by a two-thirds vote, passed in amended form a proposed constitutional amendment from the other House, and then having by a majority vote receded from its amendment, the constitutional amendment was held not to be passed (V, 7035).

In the 95th Congress, both the House and Senate agreed by a majority vote to House Joint Resolution 638, extending the time period for ratification by the States of the Equal Rights Amendment, where House Joint Resolution 208 of the 92d Congress, proposing the amendment, had provided for a seven-year ratification period. The House determined in the 95th Congress, by laying on the table by a rollcall vote a privileged resolution asserting that a vote of two-thirds of the Members present and voting was required to pass a joint resolution extending the ratification period for a constitutional amendment already submitted to the States, that only a majority vote was required on H.J. Res. 638 (Speaker O'Neill, Aug. 15, 1978, pp. 26203–4).

The joint resolution extending the ratification period for the Equal Rights Amendment was delivered to the President, who signed it although expressing doubt as to the necessity for his doing so (Presidential Documents, Oct. 19, 1978). When sent to the Administrator of General Services, the joint resolution was not assigned a public law number, but the Administrator notified the States of the action of the Congress in extending the ratification period. For a judicial decision voiding this extension as well as declaring that a state does have the power to rescind a prior ratification of a proposed constitutional amendment, see State of Idaho *v.* Freeman, 529 F.Supp. 1107 (D. Idaho 1981), judgment stayed sub nom. National Organization of Women *v.* Idaho, 455 U.S. 918 (1982), vacated as moot, 459 U.S. 809 (1982).

The yeas and nays are not required to pass a joint resolution proposing to amend the Constitution (V, 7038–7039; VIII, 3506).

Question has arisen as to the power of a State to recall its assent to a constitutional amendment (V, 7042; footnotes §§ 225, 234, infra) but has not been the subject of a final judicial determination.

Decisions of the Supreme Court of the United States:

§ 193. Decisions of the court.

National Prohibition Cases, 253 U.S. 350 (1920); Leser *v.* Garnett, 258 U.S. 130 (1922); Hawke *v.* Smith, 253 U.S. 221 (1920); Dillon *v.* Gloss, 256 U.S. 368 (1921); Chandler *v.* Wise, 307 U.S. 474 (1939); Coleman *v.* Miller, 307 U.S. 433 (1939).

ARTICLE VI.

§ 194. Validity of debts and engagements.

[1] All Debts contracted and Engagements entered into, before the Adoption of this Constitution, shall be as valid against the United States under this Constitution, as under the Confederation.

§ 195. Constitution, laws, and treaties the supreme law of the land.

[2] This Constitution, and the Laws of the United States which shall be made in Pursuance thereof; and all Treaties made, or which shall be made, under the Authority of the United States, shall be the supreme Law of the Land; and the Judges in every State shall be bound thereby, any Thing in the Constitution or Laws of any State to the Contrary notwithstanding.

§ 196. Oaths of public officers; and prohibition of religious tests.

[3] The Senators and Representatives before mentioned, and the Members of the several State Legislatures, and all executive and judicial Officers, both of the United States and of the several States, shall be bound by Oath or Affirmation, to support this Constitution; but no religious Test shall ever be required as a Qualification to any Office or public Trust under the United States.

The statutes prescribe the form of oath as follows (5 U.S.C. 3331; I, 128):

§ 197. Form of oath.

"I, A B, do solemnly swear (or affirm) that I will support and defend the Constitution of the United States against all enemies, foreign and domestic; that I will bear true faith and allegiance to the same; that I take this obligation freely, without any mental reservation or purpose of evasion, and that I will well and faithfully discharge the duties of the office on which I am about to enter. So help me God."

§ 198. Administration of oath at organization.

The act of 1789 (see 2 U.S.C. 25) provides that on the organization of the House and previous to entering on any other business the oath shall be administered by any Member (generally the Member with longest continuous service) (I, 131; VI, 6) to the Speaker and by the Speaker to the other Members and Clerk (I, 130). This law, however, has at times been considered in the House as directory merely (I, 118, 242, 243, 245; VI, 6); but at other times has been observed carefully (I, 118, 140). Previously it was the custom to administer the oath by State delegations, but beginning with the Seventy-first Congress Members-elect have been sworn in en masse (VI, 8). The Clerk supplies printed copies of the oath to Members and Delegates who have taken the oath in accordance with law, which shall be subscribed by the Members and Delegates and delivered to the Clerk to be recorded in the Journal and Congressional Record as conclusive proof of the fact that the signer duly took the oath in accordance with law (2 U.S.C. 25). See Deschler's Precedents, Ch. 2.

§ 199. Functions of the Speaker in administering the oath.

The Speaker possesses no arbitrary power in the administration of the oath (I, 134), and when objection is made the question must be decided by the House and not by the Chair (I, 519, 520). An objection prevents the Speaker from administering the oath of his own authority, even though the credentials be regular in form (I, 135–138). The Speaker has frequently declined to administer the oath in cases wherein the House has, by its action, indicated that he should not do so (I, 139, 140). And in case of doubt he has waited the instruction of the House (I, 396; VI, 11). There has been discussion as to the competency of a Speaker pro tempore to administer the oath (I, 170), and in the absence of the Speaker a Member-elect waited until the Speaker should be present (I, 179), but in 1920 a Speaker pro tempore whose designation by the Speaker had been approved by the House, administered the oath to a Member (VI, 20). The House may authorize the Speaker to administer the oath to a Member away from the House (I, 169), or may, in such a case, authorize another than the Speaker to administer the oath (I, 170; VI, 14). For forms used in this procedure see (VI, 14).

§ 200. Administration of the oath as related to the quorum.

Members-elect have been sworn at the beginning of a second session before the ascertainment of a quorum (I, 176–178), but when the Clerk called the second session of the 87th Congress to order, Members-elect were not sworn prior to ascertainment of a quorum and election of Speaker McCormack to succeed Speaker Rayburn, who had died during the sine die adjournment (Jan. 10, 1962, p. 5). Members-elect have also been sworn where a roll call or other ascertainment has shown the absence of a quorum (I, 178, 181, 182; VI, 21) but in one instance, however, the Speaker declined to administer the oath under such circumstances (II, 875).

§ 201. Privilege of administration of the oath.

A proposition to administer the oath to a Member is a matter of high privilege (VI, 14), and the oath has been administered during a call of the roll on a motion to agree to rules at the time of organization (I, 173; VI, 22), before the reading of the Journal (I, 172), in the absence of a quorum (VI, 22), on Calendar Wednesday (VI, 22), before a pending motion to amend the Journal (I, 171), and after the previous question has been ordered on a bill reported back to the House from the Committee of the Whole (Oct. 3, 1969, p. 28487). A division being demanded on a resolution for seating several claimants, the oath may be administered to each as soon as his case is decided (I, 623). Where a Member-elect whose right to a seat has been determined by the House presents himself to take the oath, his right to be sworn is complete and cannot be deferred even by a motion to adjourn (I, 622), but the Speaker has entertained the motion to adjourn after adoption of a seating resolution but before the Member-elect was present in the chamber to take the oath (May 1, 1985, p. 10019).

§ 202. Challenge of the right to take the oath.

The right of a Member-elect to take the oath is sometimes challenged and the Speaker requests the Member-elect to stand aside temporarily (VI, 9–11, 174; VIII, 3386). This usually occurs at the time of organization of the House. The challenge proceeds from some Member, but the fact that he has not yet taken the oath himself does not debar him from making the challenge (I, 141). The Member challenging does so on his responsibility as a Member or on the strength of documents (I, 448) or on both (I, 443, 474). And where an objection was sustained neither by affidavit nor on the responsibility of the Member objecting, the House declined to entertain it (I, 455).

§ 203. Consideration of an objection to the taking of the oath.

It has been held, although not uniformly, that in cases where the right of a Member-elect to take the oath is challenged, the Speaker may direct the Member to stand aside temporarily (I, 143–146, 474; VI, 9, 174; VIII, 3386). The Member so challenged is not thereby deprived of any right (I, 155), and when several are challenged and stand aside the question is first taken on the Member-elect first required to stand aside (I, 147, 148). In 1861 it was held that the House might direct contested names to be passed over until the other Members-elect had been sworn in (I, 154). Motions and debate are in order on the questions involved in a challenge, and in a few cases other business has intervened by unanimous consent (I, 149, 150). By unanimous consent the consideration of a challenge is sometimes deferred until after the completion of the organization (I, 474), and by unanimous consent also the House has sometimes proceeded to legislative business pending consideration of the right of a Member to be sworn (I, 151–152).

§ 204. Relation of credentials to the right to take the oath.

Although the House has emphasized the impropriety of swearing in a Member without credentials (I, 162–168), yet it has been done in cases wherein the credentials are delayed or lost and there is no doubt of the election (I, 85, 176–178; VI, 12, 13), or where the governor of a State has declined to give credentials to a person whose election was undoubted and uncontested (I, 553). A certificate of election in due form having been filed, the Clerk placed the name of the Member-elect on the roll, although he was subsequently advised that a State Supreme Court had issued a writ restraining the Secretary of State from issuing such certificate (January 3, 1949, p. 8). Where the prima facie right is contested the Speaker declines to administer the oath (I, 550), but the House admits on his prima facie showing and without regard to final right a Member-elect from a recognized constituency whose credentials are in due form and whose qualifications are unquestioned (I, 528–534). If the status of the constituency is in doubt, the House usually defers the oath (I, 361, 386, 448, 461). In the 99th Congress, the House declined to give prima facie effect to a certificate of election, the results of the election being in doubt, and referred the issue of initial as well as final right to the Committee on Housing Administration (H. Res. 1, Jan. 3, 1985, p. 380-7). After a recount of the votes was conducted by that committee, the House on its recommendation declared the candidate without the certificate entitled to the seat (H. Res. 146, May 1, 1985, p. 9998). The House also may defer the oath when a question of qualifications arises (I, 474), but it may investigate qualifications after the oath is taken (I, 156–159, 420, 462, 481), and after investigation unseat the Member by majority vote (I, 428).

§ 205. Sanity and loyalty as related to the oath.

Questions of sanity (I, 441) and loyalty (I, 448) seem to pertain to the competency to take the oath rather than to the question of qualifications, although there has been not a little debate on this subject (I, 479). In one case a Member-elect who had not taken the oath, was excluded from the House because of disloyalty, where the resolution of exclusion and the committee report thereon concluded that he was ineligible to take a seat as a Representative under the express provisions of section 3 of the Fourteenth Amendment (VI, 56–59). This action by the House was cited in the Supreme Court decision of Powell *v.* McCormack (395 U.S. 486, 545 fn. 83) which denied the power of the House to exclude

Members-elect by a majority vote for other than failure to meet the express qualifications stated in the Constitution. In Bond *v.* Floyd, 385 U.S. 116 (1966), the Supreme Court held that the exclusion by a State legislature of a member-elect of that body was unconstitutional, where the legislature had asserted the power to judge the sincerity with which the Member-elect could take the oath to support the Constitution of the United States. In the 97th Congress, the House declared vacant a seat where the Member-elect was unable to take the oath because of illness, where the medical prognosis showed no likelihood of improvement to permit the Member-elect to take the oath or assume the duties of a Representative (H. Res. 80, Feb. 24, 1981, pp. 2916–18).

Decisions of the Supreme Court of the United States:

§ 206. Decisions of the court.

McCulloch *v.* Maryland, 17 U.S. (4 Wheat.) 316 (1819); Ex parte Garland, 71 U.S. (4 Wall.) 333 (1867); Davis *v.* Beason, 133 U.S. 333 (1890); Mormon Church *v.* United States, 136 U.S. 1 (1890).

ARTICLE VII.

§ 207. Ratification of the Constitution.

The Ratification of the Conventions of nine States, shall be sufficient for the Establishment of this Constitution between the States so ratifying the Same.

DONE in Convention by the Unanimous Consent of the States present the Seventeenth Day of September in the Year of our Lord one thousand seven hundred and Eighty seven and of the Independence of the United States of America the Twelfth IN WITNESS whereof We have hereunto subscribed our Names,

G° WASHINGTON—*Presi*^dt^.
and Deputy from Virginia.

[Signed also by the deputies of twelve States.]

New Hampshire.

JOHN LANGDON, NICHOLAS GILMAN.

Massachusetts.

Nathaniel Gorham,
Rufus King.

Connecticut.

Wm. Saml. Johnson,
Roger Sherman.

New York.

Alexander Hamilton.

New Jersey.

Wil: Livingston,
David Brearley,
Wm. Paterson,
Jona: Dayton.

Pennsylvania.

B Franklin,
Rob^{t}. Morris,
Thos. FitzSimons,
James Wilson,
Thomas Mifflin,
Geo. Clymer,
Jared Ingersoll,
Gouv Morris.

Delaware.

Geo. Read,
John Dickinson,
Jaco Broom,
Gunning Bedford jun,
Richard Bassett.

Maryland.

James McHenry,
Dan^{l} Carroll,
Dan of S^{t} Thos. Jenifer.

Virginia.

John Blair,
James Madison Jr.

North Carolina.

Wm. Blount,
Hu Williamson,
Rich'^{d}. Dobbs Spaight.

South Carolina.

J. Rutledge,
Charles Pinckney,
Charles Cotesworth Pinckney,
Pierce Butler.

Georgia.

William Few, Abr Baldwin.
Attest: William Jackson, *Secretary.*

ARTICLES IN ADDITION TO, AND AMENDMENT OF, THE CONSTITUTION OF THE UNITED STATES OF AMERICA, PROPOSED BY CONGRESS, AND RATIFIED BY THE SEVERAL STATES PURSUANT TO THE FIFTH ARTICLE OF THE ORIGINAL CONSTITUTION[a]

AMENDMENT I.

§ 208. Freedom of religion, of speech, and of peaceable assembly.

Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances.

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[a] The first ten amendments to the Constitution of the United States were proposed to the legislatures of the several States by the First Congress on September 25, 1789 (this date and the date succeeding amendments were proposed is the date of final Congressional action—signature by the presiding officer of the Senate—as is shown in the Senate Journals). They were ratified by the following States, on the dates shown, and the notifications by the governors thereof of ratification were communicated by the President to Congress: New Jersey, November 20, 1789; Maryland, December 19, 1789; North Carolina, December 22, 1789; South Carolina, January 19, 1790; New Hampshire, January 25, 1790; Delaware, January 28, 1790; New York, February 27, 1790; Pennsylvania, March 10, 1790; Rhode Island, June 7, 1790; Vermont, November 3, 1791; and Virginia, December 15, 1791. Ratification was completed on December 15, 1791. The amendments were subsequently ratified by Massachusetts, March 2, 1939; Georgia, March 18, 1939; and Connecticut, April 19, 1939.

AMENDMENT II.

§ 209. The right to bear arms.

A well regulated Militia, being necessary to the security of a free State, the right of the people to keep and bear arms, shall not be infringed.

AMENDMENT III.

§ 210. Quartering of soldiers in houses.

No soldier shall, in time of peace be quartered in any house, without the consent of the Owner, nor in time of war, but in a manner to be prescribed by law.

AMENDMENT IV.

§ 211. Security from unreasonable searches and seizures.

The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no Warrants shall issue, but upon probable cause, supported by Oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized.

AMENDMENT V.

§ 212. Security as to accusations, trials, and property.

No person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment of a Grand Jury, except in cases arising in the land or naval forces, or in the Militia, when in actual service in time of War or public danger; nor shall any person be subject for the same offence to be twice put in jeopardy of life or limb; nor shall be compelled in any Criminal

Case to be a witness against himself; nor be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use, without just compensation.

AMENDMENT VI.

§ 213. Right to trial by jury and to confront witnesses and secure testimony.

In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the State and district wherein the crime shall have been committed, which district shall have been previously ascertained by law, and to be informed of the nature and cause of the accusation; to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor, and to have the Assistance of Counsel for his defence.

AMENDMENT VII.

§ 214. Jury trial in suits at common law.

In suits at common law, where the value in Controversy shall exceed twenty dollars, the right of trial by jury shall be preserved, and no fact tried by a jury shall be otherwise re-examined in any Court of the United States, than according to the rules of the common law.

AMENDMENT VIII.

§ 215. Excessive bail or fines and cruel punishments prohibited.

Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted.

AMENDMENT IX.

§ 216. Rights reserved to the people.

The enumeration in the Constitution, of certain rights, shall not be construed to deny or disparage others retained by the people.

AMENDMENT X.

§ 217. Powers reserved to the States.

The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people.

AMENDMENT XI.[a]

§ 218. Extent of the judicial power

The Judicial power of the United States shall not be construed to extend to any suit in law or equity, commenced or prosecuted against one of the United States by Citizens of another State, or by Citizens or Subjects of any Foreign State.

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[a] The eleventh amendment to the Constitution of the United States was proposed to the legislatures of the several States by the Third Congress on March 11, 1794; and was declared in a message from the President to Congress dated the 8th of January, 1798, to have been ratified by the legislatures of three-fourths of the States. The dates of ratification were: New York, March 27, 1794; Rhode Island, March 31, 1794; Connecticut, May 8, 1794; New Hampshire, June 16, 1794; Massachusetts, June 26, 1794; Vermont, October 28, 1794; Virginia, November 18, 1794; Georgia, November 29, 1794; Kentucky, December 7, 1794; Maryland, December 26, 1794; Delaware, January 23, 1795; and North Carolina, February 7, 1795. Ratification was completed on February 7, 1795. The amendment was subsequently ratified by South Carolina on December 4, 1797. New Jersey and Pennsylvania did not take action on the amendment.

AMENDMENT XII.[a]

§219. Meeting of the electors and transmission and count of their votes.

The Electors shall meet in their respective states, and vote by ballot for President and Vice-President, one of whom, at least, shall not be an inhabitant of the same state with themselves; they shall name in their ballots the person voted for as President, and in distinct ballots the person voted for as Vice-President, and they shall make distinct lists of all persons voted for as President, and of all persons voted for as Vice-President, and the number of votes for each, which lists they shall sign and certify, and transmit sealed to the seat of the government of the United States, directed to the President of the Senate;—The President of the Senate shall, in presence of the Senate and House of Representatives, open all the certificates and the votes shall then be counted;— * * *

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[a] "The twelfth amendment to the Constitution of the United States was proposed to the legislatures of the several States by the Eighth Congress on December 12, 1803, in lieu of the original third paragraph of the first section of the second article, and was declared in a proclamation of the Secretary of State, dated the 25th of September, 1804, to have been ratified by the legislatures of three-fourths of the States. The dates of ratification were: North Carolina, December 21, 1803; Maryland, December 24, 1803; Kentucky, December 27, 1803; Ohio, December 30, 1803; Virginia, December 31, 1803; Pennsylvania, January 5, 1804; Vermont, January 30, 1804; New York, February 10, 1804; New Jersey, February 22, 1804; Rhode Island, March 12, 1804; South Carolina, May 15, 1804; Georgia, May 19, 1804; New Hampshire, June 15, 1804. Ratification was completed on June 15, 1804. The amendment was subsequently ratified by Tennessee on July 27, 1804. The amendment was rejected by Delaware, January 18, 1804; Massachusetts, February 3, 1804; and by Connecticut at its session begun May 10, 1804.

§220. The electoral count.

The electoral count occurs in the Hall of the House (III, 1819) at 1 p.m. on the sixth day of January succeeding every meeting of electors (3 U.S.C. 15), but for the 1957 count the date was changed to Monday, January 7 (P.L. 436, 84th Cong.) and for the 1989 count the date was changed to Wednesday, January 4 (P.L. 100-646). While a law prescribes in detail the procedure at the count, the two Houses by concurrent resolution provide for the meeting to count the vote, for the appointment of tellers and for the declaration of the state of the vote (III, 1961). Under the law governing the proceedings, the two Houses divide to consider objections to the counting of any electoral vote (3 U.S.C. 15; Jan. 6, 1969, pp. 145-147); and when they have divided, a motion in the House to lay the objection on the table is not in order (Jan. 6, 1969; pp. 169-172). The Vice President-elect, as Speaker of the House, has participated in the ceremonies (VI, 446); and the Vice President, himself a candidate for the Presidency, has presided over proceedings and announced the election of his opponent in the election held the preceding November. (Jan. 6, 1961, pp. 288-291). See Deschler's Precedents Ch. 10 for discussion of the electoral college and the counting of electoral votes by the House and Senate.

§221. Elections of President and Vice-President by the House and Senate in certain cases.

* * * The person having the greatest number of votes for President, shall be the President, if such number be a majority of the whole number of Electors appointed; and if no person have such majority, then from the persons having the highest numbers not exceeding three on the list of those voted for as President, the House of Representatives shall choose immediately, by ballot, the President. But in choosing the President, the votes shall be taken by states, the representation from each state having one vote; a quorum for this purpose shall consist of a member or members from two-thirds of the states, and a majority of all the states shall be necessary to a choice. And if the House of Representatives shall not choose a President whenever the right of choice shall devolve upon them, before the fourth day of March next following,

then the Vice-President shall act as President, as in the case of the death or other constitutional disability of the President. The person having the greatest number of votes as Vice-President, shall be the Vice-President, if such number be a majority of the whole number of Electors appointed, and if no person have a majority, then from the two highest numbers on the list, the Senate shall choose the Vice-President; a quorum for the purpose shall consist of two-thirds of the whole number of Senators, and a majority of the whole number shall be necessary to a choice. But no person constitutionally ineligible to the office of President shall be eligible to that of Vice-President of the United States.

The twentieth amendment to the Constitution has clarified some of the provisions of the twelfth amendment.

The House of Representatives, in 1801 (III, 1983), chose a President under the following constitutional provision, which was superseded in 1803 by the twelfth amendment:

§ 222. First provision for election in case of failure of electoral college to choose.

"The Electors shall meet in their respective States and vote by Ballot for Two Persons, of whom one at least shall not be an Inhabitant of the same State with themselves. And they shall make a List of all the Persons voted for, and of the Number of Votes for each; which List they shall sign and certify, and transmit sealed to the Seat of the Government of the United States, directed to the President of the Senate. The President of the Senate shall, in the presence of the Senate and House of Representatives, open all the Certificates, and the Votes shall then be counted. The Person having the greatest Number of Votes shall be the President, if such Number be a Majority of the whole Number of Electors appointed; and if there be more then one who have such Majority, and have an equal Number of Votes, then the House of Representatives shall immediately chuse by Ballot one of them for President; and if no Person have a Majority, then from the five highest on the List the said House shall in like Manner chuse the President. But in chusing the President, the Votes shall be taken by States, the Representation from each State having one Vote; A quorum for this purpose shall consist of a Member or Members from two-thirds of the States, and a Majority of all the States shall be necessary to a Choice. In every Case, after the Choice of the President, the Person having the greatest Number of Votes of the Electors shall be the Vice President. But if there should remain two or more who have equal Votes, the Senate shall chuse from them by ballot the Vice-President."

§ 223. Occasions where House and Senate elected President and Vice President.

In 1825 the House elected a President under the twelfth amendment (III, 1985); and in 1837 the Senate elected a Vice-President (III, 1941).

AMENDMENT XIII.[a]

§ 224. Prohibition of slavery and involuntary servitude.

SECTION 1. Neither slavery nor involuntary servitude, except as a punishment for crime whereof the party shall have been duly convicted, shall exist within the United States, or any place subject to their jurisdiction.

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[a] The thirteenth amendment to the Constitution of the United States was proposed to the legislatures of the several States by the Thirty-eighth Congress, on February 1, 1865, and was declared, in a proclamation of the Secretary of State, dated the 18th of December 1865, to have been ratified by the legislatures of twenty-seven of the thirty-six States. The dates of ratification were: Illinois, February 1, 1865; Rhode Island, February 2, 1865; Michigan, February 2, 1865; Maryland, February 3, 1865; New York, February 3, 1865; Pennsylvania, February 3, 1865; West Virginia, February 3, 1865; Missouri, February 6, 1865; Maine, February 7, 1865; Kansas, February 7, 1865; Massachusetts, February 7, 1865; Virginia, February 9, 1865; Ohio, February 16, 1865; Indiana, February 13, 1865; Nevada, February 16, 1865; Louisiana, February 17, 1865; Minnesota, February 23, 1865; Wisconsin, February 24, 1865; Vermont, March 9, 1865; Tennessee, April 7, 1865; Arkansas, April 14, 1865; Connecticut, May 4, 1865; New Hampshire, July 1, 1865; South Carolina, November 13, 1865; Alabama, December 2, 1865; North Carolina, December 4, 1865; and Georgia, December 6, 1865. Ratification was completed on December 6, 1865. The amendment was subsequently ratified by Oregon, December 8, 1865; California, December 19, 1865; Florida, December 28, 1865 (Florida again ratified on June 9, 1868, upon its adoption of a new constitution); Iowa, January 15, 1866; New Jersey, January 23, 1866 (after having rejected the amendment on March 16, 1865); Texas, February 18, 1870; Delaware, February 12, 1901 (after having rejected the amendment on February 8, 1865); Kentucky, March 30, 1976 (after hearing rejected the amendment on February 24, 1865). The amendment was rejected by Mississippi, December 4, 1865.

SECTION 2. Congress shall have power to enforce this article by appropriate legislation.

AMENDMENT XIV.[a]

§ 225. Citizenship: security and equal protection of citizens.

SECTION 1. All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the

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[a] The fourteenth amendment to the Constitution of the United States was proposed to the legislatures of the several States by the Thirty-ninth Congress, on June 15, 1866. On July 20, 1868, the Secretary of State issued a proclamation that the fourteenth amendment was a part of the Constitution if withdrawals of ratification were ineffective. On July 21, 1868, Congress adopted and transmitted to the Department of State a concurrent resolution declaring that "the legislatures of the States of Connecticut, Tennessee, New Jersey, Oregon, Vermont, New York, Ohio, Illinois, West Virginia, Kansas, Maine, Nevada, Missouri, Indiana, Minnesota, New Hampshire, Massachusetts, Nebraska, Iowa, Arkansas, Florida, North Carolina, Alabama, South Carolina, and Louisiana, being three-fourths and more of the several States of the Union, have ratified the fourteenth article of amendment to the Constitution of the United States, duly proposed by two-thirds of each House of the Thirty-ninth Congress: Therefore *Resolved*, That said fourteenth article is hereby declared to be a part of the Constitution of the United States, and it shall be duly promulgated as such by the Secretary of State." The Secretary of State accordingly issued a proclamation, dated July 28, 1868, declaring that the proposed fourteenth amendment had been ratified, in the manner hereafter mentioned, by the legislatures of 28 States. The dates of ratification were: Connecticut, June 30, 1866; New Hampshire, July 6, 1866; Tennessee, July 18, 1866; New Jersey, September 11, 1866 (subsequently, on February 20, 1868, the legislature rescinded its ratification, and on March 24, 1868, readopted its resolution of rescission over the Governor's veto); Oregon, September 19, 1866; New York, January 10, 1867; Ohio, January 11, 1867 (subsequently rescinded its ratification on January 13, 1868); Illinois, January 15, 1867; West Virginia, January 16, 1867; Michigan, January 16, 1867; Minnesota, January 16, 1867; Kansas, January 17, 1867; Maine, January 19, 1867; Nevada, January 22, 1867; Indiana, January 23, 1867; Missouri, January 25, 1867; Pennsylvania, February 6, 1867; Rhode Island, February 7, 1867; Wisconsin, February

State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

§ 226. Apportionment of representation.

SECTION 2. Representatives shall be apportioned among the several States according to their respective numbers, counting the whole number of persons in each State, excluding Indians not taxed. But when the right to vote at any election for the choice of electors for President and Vice President of the United States, Representatives in Congress, the Executive and Judicial officers of a State, or the members of the Legislature thereof, is denied to any of the male inhabitants of such State, being twenty-one years of age, and citizens of the United States, or in any way abridged, except for participation in rebellion, or other crime, the basis of representation therein shall be reduced

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13, 1867; Massachusetts, March 20, 1867; Nebraska, June 15, 1867; Iowa, March 16, 1868; Arkansas, April 6, 1868; Florida, June 9, 1868; North Carolina, July 4, 1868 (after having rejected the amendment December 14, 1866); Louisiana, July 9, 1868 (after having rejected the amendment February 6, 1867); South Carolina, July 9, 1868 (after having rejected the amendment December 20, 1866). Ratification was completed on July 9, 1868. The amendment was subsequently ratified by Alabama, July 13, 1868; Georgia, July 21, 1868 (after having rejected it on November 9, 1866); Virginia, October 8, 1869 (after having rejected it on January 9, 1867); Mississippi, January 17, 1870; Texas, February 18, 1870 (after having rejected it on October 27, 1866); Delaware, February 12, 1901 (after having rejected it on February 8, 1867); Maryland, April 4, 1959 (after having rejected it on March 23, 1867); California, May 6, 1959; Kentucky, March 30, 1976 (after having rejected it on January 10, 1867).

in the proportion which the number of such male citizens shall bear to the whole number of male citizens twenty-one years of age in such State.

§ 227. Law governing the establishment of districts.

There has been a readjustment of House representation each ten years except during the period 1911 to 1929 (VI, 41; footnote). From March 4, 1913, permanent House membership has remained fixed at 435 (VI, 40, 41; 37 Stat. 13). Upon admission of Alaska and Hawaii to statehood, total membership was temporarily increased to 437 until the next reapportionment (72 Stat. 339, 345; 73 Stat. 8). Congress has by law provided for automatic apportionment of the 435 Representatives among the States according to each census including and after that of 1950 (2 U.S.C. 2a). The Apportionment Act formerly provided that the districts in a State were to be composed of contiguous and compact territory containing as nearly as practicable an equal number of inhabitants (I, 303; VI, 44); but subsequent apportionment Acts, those of 1929 (46 Stat. 26) and 1941 (55 Stat. 761), omitted such provisions (see Wood *v.* Broom, 287 U.S. 1 [1932]). Congress has by law provided that for the 91st and subsequent Congresses each State entitled to more than one Representative shall establish a number of districts equal to the number of such Representatives and that Representatives shall be elected only from the single-Member districts so established. (Hawaii and New Mexico were excepted from the operation of this statute for the elections to the 91st Congress) (2 U.S.C. 2c, Public Law 90-196). After any apportionment, until a State is redistricted in a manner provided by its own law and in compliance with the Congressional mandate, the question of whether its Representatives shall be elected by districts, at large, or by a combination of both, is determined by the Apportionment Act of 1941 (2 U.S.C. 2a). See Deschler's Precedents Ch. 8 for apportionment and districting.

§ 228. Questions as to elections.

The House has always seated Members elected at large in the States, although the law required election by districts (I, 310, 519). Questions have arisen from time to time when a vacancy has occurred soon after a change in districts, with the resulting question whether the vacancy should be filled by election in the old or new district (I, 311, 312, 327). The House has declined to interfere with the act of a State in changing the boundaries of a district after the apportionment has been made (I, 313).

The Attorney General has stated that all Indians are subject to taxation. 39 Ops. Atty. Gen. 518 (1940).

§ 229. Requirement that districts be equally populated.

The Supreme Court has ruled that Congressional districts must be as equally populated as practicable. Wesberry *v.* Sanders, 376 U.S. 1 (1964); Kirkpatrick *v.*

Preisler, 385 U.S. 450 (1967). The Court has made clear that variances in population among Congressional districts within a State may be considered *de minimis* only if they cannot practicably be avoided. If such variances, no matter how mathematically miniscule, could have been reduced or eliminated by a good faith effort, then they may be justified only on the basis of a consistent, rational State policy. Karcher *v.* Daggett, 462 U.S. 725 (1983). The Court has also made evident that it will take judicial review of a claims that apportionment schemes lack consistent, rational bases. Davis *v.* Bandemer, —— U.S. —— (1986) (holding political gerrymandering complaint justiciable under equal protection clause).

§ 230. Loyalty as a qualification of Senators and Representatives.

SECTION 3. No person shall be a Senator or Representative in Congress, or elector of President and Vice President, or hold any office, civil or military, under the United States, or under any State, who, having previously taken an oath, as a member of Congress, or as an officer of the United States, or as a member of any State legislature, or as an executive or judicial officer of any State, to support the Constitution of the United States, shall have engaged in insurrection or rebellion against the same, or given aid or comfort to the enemies thereof. But Congress may by a vote of two-thirds of each House, remove such disability.

§ 231. Removal of disabilities and questions as to seating a Member-elect.

Congress has by law removed generally the disabilities arising from the Civil War (30 Stat. L., p. 432). Soon after the war various questions arose under this section (I, 386, 393, 455, 456). For disloyalty to the United States, for giving aid and comfort to a public enemy, for publication of expressions hostile to the Government a Member-elect was denied a seat in the House (VI, 56, 58). As to the meaning of the words "aid or comfort" as used in the Fourteenth Amendment (VI, 57).

§ 232. Validity of the national debt, etc.

SECTION 4. The validity of the public debt of the United States, authorized by law, including debts incurred for payment of pensions and bounties for services in suppressing insurrection or rebellion, shall not be questioned. But neither the United States nor any State shall assume or pay any debt or obligation incurred in aid of insurrection or rebellion against the United States, or any claim for the loss or emancipation of any slave; but all such debts, obligations and claims shall be held illegal and void.

§ 233. Enforcement of the fourteenth amendment.

Section 5. The Congress shall have power to enforce, by appropriate legislation, the provisions of this article.

Congress may legislate under this section to protect voting rights by pre-empting state qualifications for electors which are discriminatory (Katzenbach *v.* Morgan, 384 U.S. 641 [1966]), and may lower the voting age in federal (but not State) elections (Oregon *v.* Mitchell, 400 U.S. 112 [1970]).

AMENDMENT XV.[a]

§ 234. Suffrage not to be abridged for race, color, etc.

Section 1. The right of citizens of the United States to vote shall not be denied or abridged by the United States or by any State on account of race, color, or previous condition of servitude.

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[a] The fifteenth amendment to the Constitution of the United States was proposed to the legislatures of the several States by the Fortieth Congress on February 26, 1869, and was declared, in a proclamation of the Secretary of State, dated March 30, 1870, to have been ratified by the legislatures of twenty-nine of the thirty-seven States. The dates of these ratifications were: Nevada, March 1, 1869; West Virginia, March 3, 1869; North Carolina, March 5, 1869; Illinois, March 5, 1869; Louisiana, March 5, 1869; Michigan, March 8, 1869; Wisconsin, March 9, 1869; Maine, March 11, 1869; Massachusetts, March 12, 1869; Arkansas, March 15, 1869; South Carolina, March 15, 1869; Pennsylvania, March 25, 1869; New York, April 14, 1869 (subsequently "withdrew" its consent to the ratification on January 5, 1870 but rescinded this action on March 30, 1970); Indiana, May 14, 1869; Connecticut, May 19, 1869; Florida, June 14, 1869; New Hampshire, July 1, 1869; Virginia, October 8, 1869; Ver-

SECTION 2. The Congress shall have power to enforce this article by appropriate legislation.

AMENDMENT XVI.[b]

§ 235. Taxes on incomes.

The Congress shall have power to lay and collect taxes on incomes, from whatever source derived, without appor-

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mont, October 20, 1869; Alabama, November 16, 1869; Missouri, January 7, 1870 (Missouri had ratified the first section of the fifteenth amendment on March 1, 1869, but had failed to include in its ratification the second section of the amendment); Minnesota, January 13, 1870; Mississippi, January 17, 1870; Rhode Island, January 18, 1870; Kansas, January 19, 1870; Ohio, January 27, 1870 (after having rejected the amendment April 30, 1869); Georgia, February 2, 1870; Iowa, February 3, 1870. Ratification was completed on February 3, 1870, unless the withdrawal of ratification by New York was effective; in which event ratification was completed on February 17, 1870, when ratified by Nebraska. The amendment was subsequently ratified by Texas, February 18, 1870; New Jersey, February 15, 1871 (after having rejected it on February 7, 1870); Delaware, February 12, 1901 (after having rejected it on March 18, 1869); Oregon, February 24, 1959; California, April 3, 1962 (after having rejected it on January 28, 1870); Kentucky, March 30, 1976 (after having rejected it on March 11, 12, 1869). The fifteenth amendment was rejected by Tennessee, November 16, 1869 (House); and Maryland, February 4, 26, 1870.

[b] The sixteenth amendment to the Constitution of the United States was proposed to the legislatures of the several States by the Sixty-first Congress on July 16, 1909, and was declared, in a proclamation of the Secretary of State dated February 25, 1913, to have been ratified by the legislatures of thirty-six of the forty-eight States. The dates of ratification were: Alabama, August 10, 1909; Kentucky, February 8, 1910; South Carolina, February 19, 1910; Illinois, March 1, 1910; Mississippi, March 7, 1910; Oklahoma, March 10, 1910; Maryland, April 8, 1910; Georgia, August 3, 1910; Texas, August 16, 1910; Ohio, January 19, 1911; Idaho, January 20, 1911; Oregon, January 23, 1911; Washington, January 26, 1911; Montana, January 30, 1911; Indiana, January 30, 1911; California, January 31, 1911; Nevada, January 31, 1911; South Dakota, February 3, 1911; Nebraska, February 9, 1911; North Carolina, February 11, 1911; Colorado, February 15, 1911; North Dakota, February 17, 1911; Kansas, February 18, 1911; Michigan, February 23, 1911; Iowa, February 24, 1911; Missouri, March 16, 1911; Maine, March 31, 1911; Tennessee, April 7,

tionment among the several States, and without regard to any census or enumeration.

AMENDMENT XVII.[c]

(See Article I, Section 3.)

§236. Election of Senators by direct vote.

The Senate of the United States shall be composed of two Senators from each State, elected by the people thereof,

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1911; Arkansas, April 22, 1911 (after having rejected it at the session begun January 9, 1911); Wisconsin, May 26, 1911; New York, July 12, 1911; Arizona, April 6, 1912; Minnesota, June 11, 1912; Louisiana, June 28, 1912; West Virginia, January 31, 1913; Delaware, February 3, 1913; Wyoming, February 3, 1913; New Mexico, February 3, 1913. Ratification was completed on February 3, 1913. The amendment was subsequently ratified by New Jersey, February 4, 1913; Vermont, February 19, 1913 (after having rejected the amendment January 17, 1911); Massachusetts, March 4, 1913; New Hampshire, March 7, 1913 (after having rejected the amendment March 2, 1911). The amendment was rejected by Rhode Island, April 29, 1910; Utah, March 9, 1911; Connecticut, June 28, 1911; and Florida, May 31, 1913. Pennsylvania and Virginia did not complete action.

[c] The seventeenth amendment to the Constitution of the United States was proposed to the legislatures of the several States by the Sixty-second Congress on May 15, 1912, and was declared, in a proclamation by the Secretary of State dated May 31, 1913, to have been ratified by the legislatures of thirty-six of the forty-eight States. The dates of ratification were: Massachusetts, May 22, 1912; Arizona, June 3, 1912; Minnesota, June 10, 1912; New York, January 15, 1913; Kansas, January 17, 1913; Oregon, January 23, 1913; North Carolina, January 25, 1913; California, January 28, 1913; Michigan, January 28, 1913; Iowa, January 30, 1913; Montana, January 30, 1913; Idaho, January 31, 1913; West Virginia, February 4, 1913; Colorado, February 5, 1913; Nevada, February 6, 1913; Texas, February 7, 1913; Washington, February 7, 1913; Wyoming, February 8, 1913; Arkansas, February 11, 1913; Maine, February 11, 1913; Illinois, February 13, 1913; North Dakota, February 14, 1913; Wisconsin, February 18, 1913; Indiana, February 19, 1913; New Hampshire, February 19, 1913; Vermont, February 19, 1913; South Dakota, February 19, 1913; Oklahoma, February 24, 1913; Ohio, February 25, 1913; Missouri, March 7, 1913; New Mexico, March 13, 1913; Nebraska, March 14, 1913; New Jersey, March 17, 1913; Tennessee, April 1, 1913; Pennsylvania, April 2, 1913; Connecticut, April 8, 1913. Ratification was completed on

for six years; and each Senator shall have one vote. The electors in each State shall have the qualifications requisite for electors of the most numerous branch of the State legislatures.

When vacancies happen in the representation of any State in the Senate, the executive authority of such State shall issue writs of election to fill such vacancies: *Provided,* That the legislature of any State may empower the executive thereof to make temporary appointments until the people fill the vacancies by election as the legislature may direct.

This amendment shall not be so construed as to affect the election or term of any Senator chosen before it becomes valid as part of the Constitution.

§ 237. Filling vacancies in the Senate.

Senator Rebecca L. Felton, appointed during the recess of the Senate on October 3, 1922, to fill a vacancy, was the first woman to sit in the Senate (VI, 156). Senator Walter F. George was elected to fill the vacancy on November 7, 1922. Mrs. Felton took the oath of office on November 21, 1922, and Senator George took the oath November 22, 1922 (VI, 156). Discussion as to the term of service of a Senator appointed by a State executive to fill a vacancy (VI, 156).

§ 238. Qualifications of electors.

The right of an elector to vote for a Senator is fundamentally derived from the United States Constitution (United States *v.* Aczel 219 F.2d 917 [1915]) and may not be denied in a discriminatory fashion (Chapman *v.* King, 154 F.2d 460 [1946], cert. denied, 327 U.S. 800 [1946]; Forssenius *v.* Harman, 235 F. Supp. 66 [1964], affd., 380 U.S. 529 [1965]).

April 8, 1913. The amendment was subsequently ratified by Louisiana, June 11, 1914. The amendment was rejected by Utah, February 26, 1913; Delaware, March 18, 1913. Alabama, Florida, Georgia, Rhode Island, and South Carolina did not complete action.

AMENDMENT XVIII.[a]

[*See Amendment XXI Which Repealed This Amendment*]

§ 239. Prohibition of intoxicating liquors.

SECTION 1. [After one year from the ratification of this article the manufacture, sale, or transportation of intoxicating liquors within, the importation thereof into, or the exportation thereof from the United States and all territories subject to the jurisdiction thereof for beverage purposes is hereby prohibited.

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[a] The eighteenth amendment to the Constitution of the United States was proposed to the legislatures of the several States by the Sixty-fifth Congress on December 18, 1917, and was declared in a proclamation by the Secretary of State dated January 29, 1919, to have been ratified by the legislatures of thirty-six of the forty-eight States. The dates of these ratifications were: Mississippi, January 8, 1918; Virginia, January 11, 1918; Kentucky, January 14, 1918; North Dakota, January 25, 1918; South Carolina, January 29, 1918; Maryland, February 13, 1918; Montana, February 19, 1918; Texas, March 4, 1918; Delaware, March 18, 1918; South Dakota, March 20, 1918; Massachusetts, April 2, 1918; Arizona, May 24, 1918; Georgia, June 26, 1918; Louisiana, August 3, 1918; Florida, December 3, 1918; Michigan, January 2, 1919; Ohio, January 7, 1919; Oklahoma, January 7, 1919; Idaho, January 8, 1919; Maine, January 8, 1919; West Virginia, January 9, 1919; California, January 13, 1919; Tennessee, January 13, 1919; Washington, January 13, 1919; Arkansas, January 14, 1919; Kansas, January 14, 1919; Alabama, January 15, 1919; Colorado, January 15, 1919; Iowa, January 15, 1919; New Hampshire, January 15, 1919; Oregon, January 15, 1919; Nebraska, January 16, 1919; North Carolina, January 16, 1919; Utah, January 16, 1919; Missouri, January 16, 1919; Wyoming, January 16, 1919. Ratification was completed on January 16, 1919. The amendment was subsequently ratified by Minnesota, January 17, 1919; Wisconsin, January 17, 1919; New Mexico, January 20, 1919; Nevada, January 21, 1919; New York, January 29, 1919; Vermont, January 29, 1919; Pennsylvania, February 25, 1919; Connecticut, May 6, 1919; and New Jersey, March 9, 1922. Rhode Island rejected the amendment.

SECTION 2. The Congress and the several States shall have concurrent power to enforce this article by appropriate legislation.

SECTION 3. This article shall be inoperative unless it shall have been ratified as an amendment to the Constitution by the legislatures of the several States, as provided in the Constitution, within seven years from the date of the submission hereof to the States by the Congress.]

AMENDMENT XIX.[a]

§ 240. Women's suffrage.

The right of citizens of the United States to vote shall not be denied or abridged by the United States or by any State on account of sex.

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[a] The nineteenth amendment to the Constitution of the United States was proposed to the legislatures of the several States by the Sixty-sixth Congress on June 5, 1919, and was declared in a proclamation by the Secretary of State dated August 26, 1920, to have been ratified by the legislatures of thirty-six of the forty-eight States. The dates of these ratifications were: Illinois, June 10, 1919 (and that State readopted its resolution of ratification June 17, 1919); Michigan, June 10, 1919; Wisconsin, June 10, 1919; Kansas, June 16, 1919; New York, June 16, 1919; Ohio, June 16, 1919; Pennsylvania, June 24, 1919; Massachusetts, June 25, 1919; Texas, June 28, 1919; Iowa, July 2, 1919; Missouri, July 3, 1919; Arkansas, July 28, 1919; Montana, August 2, 1919; Nebraska, August 2, 1919; Minnesota, September 8, 1919; New Hampshire, September 10, 1919; Utah, October 2, 1919; California, November 1, 1919; Maine, November 5, 1919; North Dakota, December 1, 1919; South Dakota, December 4, 1919; Colorado, December 15, 1919; Kentucky, January 6, 1920; Rhode Island, January 6, 1920; Oregon, January 13, 1920; Indiana, January 16, 1920; Wyoming, January 27, 1920; Nevada, February 7, 1920; New Jersey, February 9, 1920; Idaho, February 11, 1920; Arizona, February 12, 1920; New Mexico, February 21, 1920; Oklahoma, February 28, 1920; West Virginia, March 10, 1920; Washington, March 22, 1920; Tennessee, August 28, 1920. Ratification was completed on August 28, 1920. The amendment was subsequently ratified by Connecticut, September 14, 1920 (and that State reaffirmed on September 21, 1920); Vermont, February 8, 1921; Delaware, March 6, 1923 (after having rejected the amendment on June 2, 1920); Maryland, March 29, 1941 (after having rejected the amendment on Feb-

Congress shall have power to enforce this article by appropriate legislation.

AMENDMENT XX.[a]

§ 241. Commencement of terms of Pres., Vice Pres., Senators and Representatives.

SECTION 1. The terms of the President and Vice President shall end at noon on the 20th day of January, and the terms of Senators and Representa-

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ruary 24, 1920; ratification certified February 25, 1958); Virginia, February 21, 1952 (after having rejected the amendment February 12, 1920); Alabama, September 8, 1953 (after having rejected the amendment September 22, 1919); Florida, May 13, 1969; South Carolina, July 1, 1969 (after having rejected the amendment on January 28, 1920); Georgia, February 20, 1970 (after having rejected the amendment on July 24, 1919); Louisiana, June 11, 1970 (after having rejected it on July 1, 1920); North Carolina, May 6, 1971; Mississippi, March 22, 1984 (after having rejected the amendment on March 29, 1920).

[a] The twentieth amendment to the Constitution of the United States was proposed to the legislatures of the several States by the Seventy-second Congress, on March 3, 1932, and was declared in a proclamation by the Secretary of State dated February 6, 1933, to have been ratified by the legislatures of thirty-six of the forty-eight States. The dates of these ratifications were: Virginia, March 4, 1932; New York, March 11, 1932; Mississippi, March 16, 1932; Arkansas, March 17, 1932; Kentucky, March 17, 1932; New Jersey, March 21, 1932; South Carolina, March 25, 1932; Michigan, March 31, 1932; Maine, April 1, 1932; Rhode Island, April 14, 1932; Illinois, April 21, 1932; Louisiana, June 22, 1932; West Virginia, July 30, 1932; Pennsylvania, August 11, 1932; Indiana, August 15, 1932; Texas, September 7, 1932; Alabama, September 13, 1932; California, January 4, 1933; North Carolina, January 5, 1933; North Dakota, January 9, 1933; Minnesota, January 12, 1933; Montana, January 13, 1933; Nebraska, January 13, 1933; Oklahoma, January 13, 1933; Arizona, January 13, 1933; Kansas, January 16, 1933; Oregon, January 16, 1933; Wyoming, January 19, 1933; Delaware, January 19, 1933; Washington, January 19, 1933; South Dakota, January 20, 1933; Tennessee, January 20, 1933; Iowa, January 20, 1933; Idaho, January 21, 1933; New Mexico, January 21, 1933; Ohio, January 23, 1933; Utah, January 23, 1933; Missouri, January 23, 1933; Georgia, January 23, 1933. Ratification was completed on January 23, 1933. The amendment was subsequently ratified by Massachusetts, January 24, 1933; Wisconsin, January 24, 1933; Colora-

tives at noon on the 3d day of January, of the years in which such terms would have ended if this article had not been ratified; and the terms of their successors shall then begin.

§ 242. Meeting of Congress.

SECTION 2. The Congress shall assemble at least once in every year, and such meeting shall begin at noon on the 3d day of January, unless they shall by law appoint a different day.

Prior to the ratification of the twentieth amendment Congress met on the first Monday in December as provided in Article I, section 4, of the Constitution. For discussion of the term of Congress prior to and pursuant to the twentieth amendment, see § 6, supra (footnote to art. I, sec. 2, clause 1), and Deschler's Precedents Ch. 1.

Pursuant to section 2 of the 20th Amendment, a regular session of a Congress must begin at noon on January 3 of every year unless Congress sets a different date by law, and if the House is in session at that time the Speaker declares the House adjourned sine die without a motion from the floor, in order that the next regular session of that Congress, or the first session of the next Congress (as the case may be) may assemble at noon on that day (Jan. 3, 1980, p. 3774).

§ 243. Laws appointing different day for convening.

Since ratification, laws appointing a different day for assembling have been enacted as follows: Public Law 94-120, Jan. 5, 1937; Public Law 77-395, Jan. 5, 1942; Public Law 77-819, Jan. 6, 1943; Public Law 78-210, Jan. 10, 1944; Public Law 79-289, Jan. 14, 1946; Public Law 80-358, Jan. 6, 1948; Public Law 82-244, Jan. 8, 1952; Public Law 83-199, Jan. 6, 1954; Public Law 83-700, Jan. 5, 1955; Public Law 85-290, Jan. 7, 1958; Public Law 85-819, Jan. 7, 1959; Public Law 86-305, Jan. 6, 1960; Public Law 87-348, Jan. 10, 1962; Public Law 87-864, Jan. 9, 1963; Public Law 88-247, Jan. 7, 1964; Public Law 88-649, Jan. 4, 1965; Public Law 89-340, Jan. 10, 1966; Public Law 89-704, Jan. 10, 1967; Public Law 90-230, Jan. 15, 1968; Public Law 91-182, Jan. 19, 1970; Public Law 91-643, Jan. 21, 1971; Public Law 92-217, Jan. 18, 1972; Public Law 93-196, Jan. 21, 1974;

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do, January 24, 1933; Nevada, January 26, 1933; Connecticut, January 27, 1933; New Hampshire, January 31, 1933; Vermont, February 2, 1933; Maryland, March 24, 1933; Florida, April 26, 1933.

The ratification of this amendment to the Constitution shortened the first term of President Franklin D. Roosevelt and Vice President John N. Garner, and all Senators and Representatives of the Seventy-third Congress.

Public Law 93–553, Jan. 14, 1975; Public Law 94–186, Jan. 19, 1976; Public Law 94–494, Jan. 4, 1977; Public Law 95–594, Jan. 15, 1979; Public Law 96–566, Jan. 5, 1981; Public Law 97–133, Jan. 25, 1982; Public Law 98–179, Nov. 16, 1983.

§ 244. Death or disqualification of President elect.

SECTION 3. If, at the time fixed for the beginning of the term of the President, the President elect shall have died, the Vice President elect shall become President. If a President shall not have been chosen before the time fixed for the beginning of his term, or if the President elect shall have failed to qualify, then the Vice President elect shall act as President until a President shall have qualified; and the Congress may by law provide for the case wherein neither a President elect nor a Vice President elect shall have qualified, declaring who shall then act as President, or the manner in which one who is to act shall be selected, and such person shall act accordingly until a President or Vice President shall have qualified.

§ 245. Statutory succession and the twenty-fifth amendment.

Congress provided by law in 1947 for the performance of the duties of the President in case of removal, death, resignation or inability, both of the President and Vice President (3 U.S.C. 19). Earlier succession statutes covering the periods 1792–1886 and 1887–1948 can be found in 18 Stat. 21, and 24 Stat. 1, respectively. Also see the twenty-fifth amendment to the Constitution, relating to vacancies in the office of Vice President and Presidential inability.

Prior to the twentieth amendment there was no provision in the Constitution to take care of a case wherein the President elect was disqualified or had died.

§ 246. Congress to provide for case wherein death occurs among those from whom House chooses a President.

SECTION 4. The Congress may by law provide for the case of the death of any of the persons from whom the House of Representatives may choose a President whenever the right of choice shall have devolved upon them, and for the case of the death of any of the persons from whom the Senate may choose a Vice President whenever the right of choice shall have devolved upon them.

The above section changes the twelfth amendment insofar as it gives Congress the power to provide by law the manner in which the House should proceed in the event no candidate had a majority and one of the three highest on the list of those voted for as President had died.

SECTION 5. Sections 1 and 2 shall take effect on the 15th day of October following the ratification of this article.

SECTION 6. This article shall be inoperative unless it shall have been ratified as an amendment to the Constitution by the legislatures of three-fourths of the several States within seven years from the date of its submission.

AMENDMENT XXI.[a]

§ 247. Repeal of prohibition.

SECTION 1. The eighteenth article of amendment to the Constitution of the United States is hereby repealed.

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[a] The twenty-first amendment to the Constitution of the United States was proposed to conventions of the several States by the Seventy-second Congress on February 20, 1933, and was declared in a proclamation by the Acting Secretary of State dated December 5, 1933, to have been ratified by conventions in thirty-six of the forty-eight States. The dates of these ratifications were: Michigan, April 10, 1933; Wisconsin, April 25, 1933; Rhode Island, May 8, 1933; Wyoming, May 25, 1933; New Jersey, June 1, 1933; Delaware, June 24, 1933; Massachusetts, June 26, 1933; In-

SECTION 2. The transportation or importation into any State, Territory, or possession of the United States for delivery or use therein of intoxicating liquors, in violation of the laws thereof, is hereby prohibited.

§ 248. Transportation into States prohibited.

SECTION 3. This article shall be inoperative unless it shall have been ratified as an amendment to the Constitution by conventions in the several States, as provided in the Constitution, within seven years from the date of the submission hereof to the States by the Congress.

AMENDMENT XXII.[a]

SECTION 1. No person shall be elected to the office of the President more than twice, and no person who has held the office of President, or acted as

§ 249. No person shall be elected President more than twice.

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diana, June 26, 1933; New York, June 27, 1933; Illinois, July 10, 1933; Iowa, July 10, 1933; Connecticut, July 11, 1933; New Hampshire, July 11, 1933; California, July 24, 1933; West Virginia, July 25, 1933; Arkansas, August 1, 1933; Oregon, August 7, 1933; Alabama, August 8, 1933; Tennessee, August 11, 1933; Missouri, August 29, 1933; Arizona, September 5, 1933; Nevada, September 5, 1933; Vermont, September 23, 1933; Colorado, September 26, 1933; Washington, October 3, 1933; Minnesota, October 10, 1933; Idaho, October 17, 1933; Maryland, October 18, 1933; Virginia, October 25, 1933; New Mexico, November 2, 1933; Florida, November 14, 1933; Texas, November 24, 1933; Kentucky, November 27, 1933; Ohio, December 5, 1933; Pennsylvania, December 5, 1933; Utah, December 5, 1933. The amendment was subsequently ratified by Maine on December 6, 1933; Montana, August 6, 1934. The convention held in the State of South Carolina on December 4, 1933, rejected the twenty-first amendment.

[a] The twenty-second amendment to the Constitution of the United States was proposed to the legislatures of the several States by the Eightieth Congress on March 24, 1947, and was declared by the Administrator of General Services, in a proclamation dated March 1, 1951, to have been ratified by the legislatures of thirty-six of the forty-eight States. The dates of these ratifications were: Maine, March 31, 1947; Michigan,

President, for more than two years of a term to which some other person was elected President shall be elected to the office of the President more than once. But this Article shall not apply to any person holding the office of President when this Article was proposed by the Congress, and shall not prevent any person who may be holding the office of President, or acting as President, during the term within which this Article becomes operative from holding the office of President or acting as President during the remainder of such term.

SECTION 2. This article shall be inoperative unless it shall have been ratified as an amendment to the Constitution by the legislatures of three-fourths of the several States within seven years from the date of its submission to the States by the Congress.

March 31, 1947; Iowa, April 1, 1947; Kansas, April 1, 1947; New Hampshire, April 1, 1947; Delaware, April 2, 1947; Illinois, April 3, 1947; Oregon, April 3, 1947; Colorado, April 12, 1947; California, April 15, 1947; New Jersey, April, 15, 1947; Vermont, April 15, 1947; Ohio, April 16, 1947; Wisconsin, April 16, 1947; Pennsylvania, April 29, 1947; Connecticut, May 21, 1947; Missouri, May 22, 1947; Nebraska, May 23, 1947; Virginia, January 28, 1948; Mississippi, February 12, 1948; New York, March 9, 1948; South Dakota, January 21, 1949; North Dakota, February 25, 1949; Louisiana, May 17, 1950; Montana, January 25, 1951; Indiana, January 29, 1951; Idaho, January 30, 1951; New Mexico, February 12, 1951; Wyoming, February 12, 1951; Arkansas, February 15, 1951; Georgia, February 17, 1951; Tennessee, February 20, 1951; Texas, February 22, 1951; Nevada, February 26, 1951; Utah, February 26, 1951; Minnesota, February 27, 1951. Ratification was completed February 27, 1951. The amendment was subsequently ratified by North Carolina, February 28, 1951; South Carolina, March 13, 1951; Maryland, March 14, 1951; Florida, April 16, 1951; Alabama, May 4, 1951.

AMENDMENT XXIII.[a]

§ 250. Representation in the Electoral College to the District of Columbia.

SECTION 1. The District constituting the seat of Government of the United States shall appoint in such manner as the Congress may direct:

A number of electors of President and Vice President equal to the whole number of Senators and Representatives in Congress to which the District would be entitled if it were a State, but in no event more than the least populous State; they shall be in addition to those appointed by the States, but they shall be considered, for the purposes of the election of President and Vice President, to be electors appointed by a State;

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[a] The twenty-third amendment to the Constitution of the United States was proposed to the legislatures of the several States by the Eighty-sixth Congress on June 17, 1960, and was declared by the Administrator of General Services, in a proclamation dated April 3, 1961, to have been ratified by the legislatures of thirty-nine of the fifty States. The dates of these ratifications were: Hawaii, June 23, 1960; Massachusetts, August 22, 1960; New Jersey, December 19, 1960; New York, January 17, 1961; California, January 19, 1961; Oregon, January 27, 1961; Maryland, January 30, 1961; Idaho, January 31, 1961; Maine, January 31, 1961; Minnesota, January 31, 1961; New Mexico, February 1, 1961; Nevada, February 2, 1961; Montana, February 26, 1961; Colorado, February 8, 1961; Washington, February 9, 1961; West Virginia, February 9, 1961; Alaska, February 10, 1961; Wyoming, February 13, 1961; South Dakota, February 14, 1961; Delaware, February 20, 1961; Utah, February 21, 1961; Wisconsin, February 21, 1961; Pennsylvania, February 28, 1961; Indiana, March 3, 1961; North Dakota, March 3, 1961; Tennessee, March 6, 1961; Michigan, March 8, 1961; Connecticut, March 9, 1961; Arizona, March 10, 1961; Illinois, March 14, 1961; Nebraska, March 15, 1961; Vermont, March 15, 1961; Iowa, March 16, 1961; Missouri, March 20, 1961; Oklahoma, March 21, 1961; Rhode Island, March 22, 1961; Kansas, March 29, 1961; and Ohio, March 29, 1961. Ratification was completed March 29, 1961. The amendment was subsequently ratified by New Hampshire on March 30, 1961 (when that State annulled and then repeated its ratification of March 29, 1961). Arkansas rejected the amendment January 24, 1961.

and they shall meet in the District and perform such duties as provided by the twelfth article of amendment.

SECTION 2. The Congress shall have power to enforce this article by appropriate legislation.

AMENDMENT XXIV.[b]

§ 251. Right to vote not denied for failure to pay poll tax.

SECTION 1. The right of citizens of the United States to vote in any primary or other election for President or Vice President, for electors for President or Vice President, or for Senator or Representative in Congress, shall not be denied or abridged by the United States or any State by reason of failure to pay any poll tax or other tax.

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[b] The twenty-fourth amendment to the Constitution of the United States was proposed to the legislatures of the several States by the Eighty-seventh Congress on August 28, 1962, and was declared by the Administrator of General Services, in a proclamation dated February 4, 1964, to have been ratified by the legislatures of thirty-eight of the fifty States. The dates of these ratifications were: Illinois, November 14, 1962; New Jersey, December 3, 1962; Oregon, January 25, 1963; Montana, January 28, 1963; West Virginia, February 1, 1963; New York, February 4, 1963; Maryland, February 6, 1963; California, February 7, 1963; Alaska, February 11, 1963; Rhode Island, February 14, 1963; Indiana, February 19, 1963; Utah, February 20, 1963; Michigan, February 20, 1963; Colorado, February 21, 1963; Ohio, February 27, 1963; Minnesota, February 27, 1963; New Mexico, March 5, 1963; Hawaii, March 6, 1963; North Dakota, March 7, 1963; Idaho, March 8, 1963; Washington, March 14, 1963; Vermont, March 15, 1963; Nevada, March 19, 1963; Connecticut, March 20, 1963; Tennessee, March 21, 1963; Pennsylvania, March 25, 1963; Wisconsin, March 26, 1963; Kansas, March 28, 1963; Massachusetts, March 28, 1963; Nebraska, April 4, 1963; Florida, April 18, 1963; Iowa, April 24, 1963; Delaware, May 1, 1963; Missouri, May 13, 1963; New Hampshire, June 12, 1963; Kentucky, June 27, 1963; Maine, January 16, 1964; and South Dakota, January 23, 1964. Ratification was completed on January 23, 1964. Mississippi rejected the amendment on December 20, 1962.

Harman *v.* Forssenius, 380 U.S. 528 (1965); Harper *v.* Virginia State Board of Elections, 383 U.S. 663 (1966).

SECTION 2. The Congress shall have power to enforce this article by appropriate legislation.

AMENDMENT XXV.[c]

§ 252. Presidential succession and inability.

SECTION 1. In case of the removal of the President from office or of his death or resignation, the Vice President shall become President.

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[c] The twenty-fifth amendment to the Constitution of the United States was proposed to the legislatures of the several States by the Eighty-ninth Congress on July 7, 1965, and was declared by the Administrator of General Services, in a proclamation dated February 23, 1967, to have been ratified by the legislatures of thirty-nine of the fifty States. The dates of these ratifications were: Nebraska, July 12, 1965; Wisconsin, July 13, 1965; Oklahoma, July 16, 1965; Massachusetts, August 9, 1965; Pennsylvania, August 18, 1965; Kentucky, September 15, 1965; Arizona, September 22, 1965; Michigan, October 5, 1965; Indiana, October 20, 1965; California, October 21, 1965; Arkansas, November 4, 1965; New Jersey, November 29, 1965; Delaware, December 7, 1965; Utah, January 17, 1966; West Virginia, January 20, 1966; Maine, January 24, 1966; Rhode Island, January 28, 1966; Colorado, February 3, 1966; New Mexico, February 3, 1966; Kansas, February 8, 1966; Vermont, February 10, 1966; Alaska, February 18, 1966; Idaho, March 2, 1966; Hawaii, March 3, 1966; Virginia, March 8, 1966; Mississippi, March 10, 1966; New York, March 14, 1966; Maryland, March 23, 1966; Missouri, March 30, 1966; New Hampshire, June 13, 1966; Louisiana, July 5, 1966; Tennessee, January 12, 1967; Wyoming, January 25, 1967; Iowa, January 26, 1967; Washington, January 26, 1967; Oregon, February 2, 1967; Minnesota, February 10, 1967; Nevada, February 10, 1967. Ratification was completed February 10, 1967. The amendment was subsequently ratified by Connecticut, February 14, 1967; Montana, February 15, 1967; South Dakota, March 6, 1967; Ohio, March 7, 1967; Alabama, March 14, 1967; North Carolina, March 22, 1967; Illinois, March 22, 1967; Texas, April 25, 1967; Florida, May 25, 1967.

SECTION 2. Whenever there is a vacancy in the office of the Vice President, the President shall nominate a Vice President who shall take office upon confirmation by a majority vote of both Houses of Congress.

§ 253. Confirmation by House and Senate of nominee to fill vice presidential vacancy.

SECTION 3. Whenever the President transmits to the President pro tempore of the Senate and the Speaker of the House of Representatives his written declaration that he is unable to discharge the powers and duties of his office, and until he transmits to them a written declaration to the contrary, such powers and duties shall be discharged by the Vice President as Acting President.

§ 254. President's declaration of disability.

SECTION 4. Whenever the Vice President and a majority of either the principal officers of the executive departments or of such other body as Congress may by law provide, transmit to the President pro tempore of the Senate and the Speaker of the House of Representatives their written declaration that the President is unable to discharge the powers and duties of his office, the Vice President shall immediately assume the powers and duties of the office as Acting President.

§ 255. Determination of presidential inability and Vice President as Acting President.

Thereafter, when the President transmits to the President pro tempore of the Senate and the Speaker of the House of Representatives his written declaration that no inability exists, he shall resume the powers and duties of his office unless the Vice President and a majority of either the principal officers of the executive department or of such other body as Congress may by law provide, transmit within four days to the President pro tempore of the Senate and the Speaker of the House of Representatives their written declaration that the President is unable to discharge the powers and duties of his office. Thereupon Congress shall decide the issue, assembling within forty-eight hours for that purpose if not in session. If the Congress, within twenty-one days after receipt of the latter written declaration, or, if Congress is not in session, within twenty-one days after Congress is required to assemble, determines by two-thirds vote of both Houses that the President is unable to discharge the powers and duties of his office, the Vice President shall continue to discharge the same as Acting President; otherwise, the President shall resume the powers and duties of his office.

§ 256. Instances where House and Senate have confirmed nominee as Vice President.

Congress has twice performed its responsibility under section two of the twenty-fifth amendment. On October 13, 1973, the Speaker laid before the House a message from President Nixon transmitting his nomination of Gerald R. Ford, Representative and Minority Leader in the House of Representatives, to be Vice President of the United States, Vice President Agnew having resigned on October 10, 1973. The Speaker referred the nomination to the Committee on the Judiciary, which under Rule X, clause 1 (m)(15) has jurisdiction over messages and matters relating to Presidential succession (Oct. 13, 1973, p. 34032). The nomination of Mr. Ford to be Vice President was confirmed by the Senate on November 27, 1973 (p. 38225) and by the House on December 6, 1973 (p. 39900), and Vice President Ford was sworn in in the Chamber of the House of Representatives on December 6 (p. 39925). Subsequently, President Nixon resigned from office by delivering his written resignation into the office of the Secretary of State, pursuant to 3 U.S.C. 20, on August 9, 1974. Pursuant to section one of the twenty-fifth amendment, Vice President Ford became President, and was sworn in in the East Room at the White House. He nominated Nelson A. Rockefeller to be Vice President which nomination was received in the House of Representatives and referred to the Committee on the Judiciary on August 20, 1974; the nomination was confirmed by the Senate on December 10, 1974 (p. 38936) and by the House on December 19, 1974 (p. 41516), and Vice President Rockefeller was sworn in in the Senate Chamber on December 19, 1974 (p. 41181). On both instances, the House received the message from the Senate, announcing that body's confirmation of the nominee for Vice President, following the vote on confirmation by the House. On July 15, 1985 (p. 18955-6) the Speaker laid before the House two communications from the President of the United States advising (1) of the President's temporary period of incapacity of discharging the Constitutional powers and duties of the Office of President and directing that the Vice President discharge those duties in his stead and (2) a subsequent Presidential determination of his ability to resume those powers and duties.

AMENDMENT XXVI.[a]

§ 257. Right to vote extended to persons 18 years of age or older.

SECTION 1. The right of citizens of the United States, who are eighteen years of age or older, to vote shall not be denied or abridged by the United States or by any State on account of age.

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[a] The 26th amendment to the Constitution was proposed by the Congress on March 23, 1971. It was declared, in a certificate of the Administrator of General Services, dated July 5, 1971, to have been ratified by the legislatures of 39 of the 50 States. The dates of ratification were: Connecticut, March 23, 1971; Delaware, March 23, 1971; Minnesota, March 23, 1971; Tennessee, March 23, 1971; Washington, March 23, 1971; Hawaii, March 24, 1971; Massachusetts, March 24, 1971; Montana, March 29, 1971; Arkansas, March 30, 1971; Idaho, March 30, 1971; Iowa, March 30, 1971; Nebraska, April 2, 1971; New Jersey, April 3, 1971; Kansas, April 7, 1971; Michigan, April 7, 1971; Alaska, April 8, 1971; Maryland, April 8, 1971; Indiana, April 8, 1971; Maine, April 9, 1971; Vermont, April 16, 1971; Louisiana, April 17, 1971; California, April 19, 1971; Colorado, April 27, 1971; Pennsylvania, April 27, 1971; Texas, April 27, 1971; South Carolina, April 28, 1971; West Virginia, April 28, 1971; New Hampshire, May 13, 1971; Arizona, May 14, 1971; Rhode Island, May 27, 1971; New York, June 2, 1971; Oregon, June 4, 1971; Missouri, June 14, 1971; Wisconsin, June 22, 1971; Illinois, June 29, 1971; Alabama, June 30,

SECTION 2. The Congress shall have power to enforce this article by appropriate legislation.

1971; Ohio, June 30, 1971; North Carolina, July 1, 1971; Oklahoma, July 1, 1971.

Ratification was completed on July 1, 1971.

The amendment was subsequently ratified by Virginia, July 8, 1971; Wyoming, July 8, 1971; Georgia, October 4, 1971.

JEFFERSON'S MANUAL

JEFFERSON'S MANUAL OF PARLIAMENTARY PRACTICE [a]

SEC. I.—IMPORTANCE OF ADHERING TO RULES.

§ 283. Rules as related to the privileges of minorities.

Mr. Onslow, the ablest among the Speakers of the House of Commons, used to say, "It was a maxim he had often heard when he was a young man,

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[a] Jefferson's Manual was prepared by Thomas Jefferson for his own guidance as President of the Senate in the years of his Vice Presidency, from 1797 to 1801. In 1837 the House, by rule which still exists, provided that the provisions of the Manual should "govern the House in all cases to which they are applicable and in which they are not inconsistent with the standing rules and orders of the House and joint rules of the Senate and House of Representatives. Rule XLII; § 938. In 1880 the committee which revised the rules of the House declared in their report that the Manual, "compiled as it was for the use of the Senate exclusively and made up almost wholly of collations of English parliamentary practice and decisions, it was never especially valuable as an authority in the House of Representatives, even in its early history, and for many years past has been rarely quoted in the House" (V, 6757). This statement, although sanctioned by high authority, is extreme, for in certain parts of the Manual are to be found the foundations of some of the most important portions of the House's practice.

§ 284. The Manual as a statement of parliamentary law.

The Manual is regarded by English parliamentarians as the best statement of what the law of Parliament was at the time Jefferson wrote it. Jefferson himself says, in the preface of the work:

"I could not doubt the necessity of quoting the sources of my information, among which Mr. Hatsel's most valuable book is preeminent; but as he has only treated some general heads, I have been obliged to recur to other authorities in support of a number of common rules of practice, to which his plan did not descend. Sometimes each authority cited supports the whole passage. Sometimes it rests on all taken together. Sometimes from old and experienced Members, that nothing tended more to throw power into the hands of administration, and those who acted with the majority of the House of Commons, than a neglect of, or departure from, the rules of proceeding; that these forms, as instituted by our ancestors, operated as a check and control on the actions of the majority, and that they were, in many instances, a shelter and protection to the minority, against the attempts of power." So far the maxim is certainly true, and is founded in good sense, that as it is always in the power of the majority, by their numbers, to stop any improper measures proposed on the part of their opponents, the only weapons by which the minority can defend themselves against similar attempts from those in power are the forms and rules of proceeding which have been adopted as

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the authority goes only to a part of the text, the residue being inferred from known rules and principles. For some of the most familiar forms no written authority is or can be quoted, no writer having supposed it necessary to repeat what all were presumed to know. The statement of these must rest on their notoriety.

"I am aware that authorities can often be produced in opposition to the rules which I lay down as parliamentary. An attention to dates will generally remove their weight. The proceedings of Parliament in ancient times, and for a long while, were crude, multiform, and embarrassing. They have been, however, constantly advancing toward uniformity and accuracy, and have now attained a degree of aptitude to their object beyond which little is to be desired or expected.

"Yet I am far from the presumption of believing that I may not have mistaken the parliamentary practice in some cases, and especially in those minor forms, which, being practiced daily, are supposed known to everybody, and therefore have not been committed to writing. Our resources in this quarter of the globe for obtaining information on that part of the subject are not perfect. But I have begun a sketch, which those who come after me will successively correct and fill up, till a code they were found necessary, from time to time, and are become the law of the House, by a strict adherence to which the weaker party can only be protected from those irregularities and abuses which these forms were intended to check, and which the wantonness of power is but too often apt to suggest to large and successful majorities, *2 Hats., 171, 172.*

§ 285. Necessity of rules of action.

And whether these forms be in all cases the most rational or not is really not of so great importance. It is much more material that there should be a rule to go by than what that rule is; that there may be a uniformity of proceeding in business not subject to the caprice of the Speaker or captiousness of

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of rules shall be formed for the use of the Senate, the effects of which may be accuracy in business, economy of time, order, uniformity, and impartiality."

Jefferson also says in his preface, as to the source most desirable at that time from which to draw principles of procedure:

§ 286. Relations of the parliamentary law to the early practice of Congress.

"But to what system of rules is he to recur, as supplementary to those of the Senate? To this there can be but one answer: To the system of regulations adopted for the government of some one of the parliamentary bodies within these States, or of that which has served as a prototype to most of them. This last is the model which we have all studied, while we are little acquainted with the modifications of it in our several States. It is deposited, too, in publications possessed by many, and open to all. Its rules are probably as wisely constructed for governing the debates of a deliberative body, and obtaining its true sense, as any which can become known to us; and the acquiescence of the Senate, hitherto, under the references to them, has given them the sanction of the approbation."

Those portions of the Manual which refer exclusively to Senate procedure or which refer to English practice wholly inapplicable to the House of Representatives have been omitted. Paragraphs from the Constitution of the United States have also been omitted, as the Constitution is printed entire in this volume.

the members. It is very material that order, decency, and regularity be preserved in a dignified public body. *2 Hats., 149.*

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SEC. III.—PRIVILEGE.

§ 287. Privileges of members of Parliament.

The privileges of members of Parliament, from small and obscure beginnings, have been advancing for centuries with a firm and never yielding pace. Claims seem to have been brought forward from time to time, and repeated, till some example of their admission enabled them to build law on that example. We can only, therefore, state the points of progression at which they now are. It is now acknowledged, 1st. That they are at all times exempted from question elsewhere, for anything said in their own House; that during the time of privilege, 2d. Neither a member himself, his, *order H. of C. 1663, July 16,* wife, nor his servants (familiares sui), for any matter of their own, may be, *Elsynge, 217; 1 Hats., 21; 1 Grey's Deb., 133,* arrested on mesne process, in any civil suit: 3d. Nor be detained under execution, though levied before time of privilege: 4th. Nor impleaded, cited, or subpoenaed in any court: 5th. Nor summoned as a witness or juror: 6th. Nor may their lands or goods be distrained: 7th. Nor their persons assaulted, or characters traduced. And the period of time covered by privilege, before and after the session, with the practice of short prorogations under the connivance of the Crown, amounts in fact to a perpetual protection against the course of justice. In one instance, indeed, it has been relaxed by the 10 G. 3, c. 50, which permits judiciary proceedings to go on against them. That these privileges must be continually progressive, seems to result from their rejecting all definition of them; the doctrine being, that "their dignity and independence are preserved by keeping their privileges indefinite; and that 'the maxims upon which they proceed, together with the method of proceeding, rest entirely in their own breast, and are not defined and ascertained by any particular stated laws.' " *1 Blackst., 163, 164.*

§ 288. Privilege of Members of Congress under the Constitution.

It was probably from this view of the encroaching character of privilege that the framers of our Constitution, in their care to provide that the laws shall bind equally on all, and especially that those who make them shall not exempt themselves from their operation, have only privileged "Senators and Representatives" themselves from the single act of "arrest in all cases except treason, felony, and breach of the peace, during their attendance at the session of their respective Houses, and in going to and returning from the same, and from being questioned in any other place for any speech or debate in either House." *Const. U.S. Art I, Sec. 6.* Under the general authority "to make all laws necessary and proper for carrying into execution the powers given them," *Const. U.S., Art. II, Sec. 8,* they may provide by law the details which may be necessary for giving full effect to the enjoyment of this privilege. No such law being as yet made, it seems to stand at present on the following ground: 1. The act of arrest is void, ab initio. *2 Stra., 989.* 2. The member arrested may be discharged on motion, *1 Bl., 166; 2 Stra., 990;* or by habeas corpus under the Federal or State authority, as the case may be; or by a writ of privilege out of the chancery, *2 Stra., 989,* in those States which have adopted that part of the laws of England. *Orders of the House of Commons, 1550, February 20.* 3. The arrest being unlawful, is a trespass for which the officer and others concerned are liable to action or indictment in the ordinary courts of justice, as in other cases of unauthorized arrest. 4. The court before which the process is returnable is bound to act as in other cases of unauthorized proceeding, and liable, also, as in other similar cases, to have their proceedings stayed or corrected by the superior courts.

§ 289. Privilege as to going and returning.

The time necessary for going to, and returning from, Congress, not being defined, it will, of course, be judged of in every particular case by those who will have to decide the case. While privilege was understood in England to extend, as it does here, only to exemption from arrest, eundo, morando, et redeundo, the House of Commons themselves decided that "a convenient time was to be understood." *(1580,) 1 Hats., 99, 100.* Nor is the law so strict in point of time as to require the party to set out immediately on his return, but allows him time to settle his private affairs, and to prepare for his journey; and does not even scan his road very nicely, nor forfeit his protection for a little deviation from that which is most direct; some necessity perhaps constraining him to it. *2 Stra., 986, 987.*

§ 290. Privilege of Members as related to rights of courts to summon witnesses and jurors.

This privilege from arrest, privileges, of course, against all process the disobedience to which is punishable by an attachment of the person; as a subpoena ad respondendum, or testificandum, or a summons on a jury; and with reason, because a Member has superior duties to perform in another place. When a Representative is withdrawn from his seat by summons, the 40,000 people whom he represents lose their voice in debate and vote, as they do on his voluntary absence; when a Senator is withdrawn by summons, his State loses half its voice in debate and vote, as it does on his voluntary absence. The enormous disparity of evil admits no comparison.

§ 291a. Attitude of the House as to demands of the courts.

The House has decided that the summons of a court to Members to attend and testify constituted a breach of privilege, and directed them to disregard the mandate (III, 2661); but in other cases wherein Members informed the House that they had been summoned before the District Court of the United States for the District of Columbia or other courts, the House authorized them to respond (III, 2662; February 23, 1948, p. 1557; March 5, 1948, p. 2224; April 8, 1948, p. 4264; April 12, 1948, p. 4347; April 14, 1948, p. 4461; April 15, 1948, p. 4529; April 28, 1948, p. 5009; May 6, 1948, pp. 5433, 5451; February 2, 1950, p. 1399; April 4, 1951, p. 3320; April 9, 1951, p. 3525; April 12, 1951, pp. 3751, 3752; April 13, 1951, p. 3915; June 4, 1951, p. 6084; June 22, 1951, p. 7001; September 18, 1951, p. 11571; September 27, 1951, p. 12292; March 5, 1953, p. 1658; March 18, 1953, p. 2085; March 11, 1954, p. 3102; July 19, 1954, p. 10904; April 9, 1956, p. 5970; April 10, 1956, p. 5991). The House, however, has declined to make a general rule permitting Members to waive their privilege, preferring that the Member in each case should apply for permission (III, 2660). Also in maintenance of its privilege the House has refused to permit the Clerk or other officers to produce in court, in obedience to a summons, an original paper from the files, but has given the court facilities for making copies (III, 2664, 2666; April 15, 1948, p. 4552; April 29, 1948, pp. 5161, 5162; May 6, 1948, p. 5432; January 18, 1950, p. 565; February 8, 1950, p. 1695; February 13, 1950, p. 1765; September 22, 1950, p. 15636; April 6, 1951, p. 3403; April 12, 1951, p. 3800; October 20, 1951, p. 13777; January 22, 1953, p. 498; May 25, 1953, p. 5523; January 28, 1954, pp. 964-65; February 25, 1954, pp. 2281-82; July 1, 1955, pp. 9818-19; April 12, 1956, p. 6258; April 24, 1958, p. 7262; April 29, 1958, p. 7636; September 16, 1974, p. 31123; January 19, 1977, pp. 1728-9), but on one occasion, where the circumstances warranted such action, the Clerk was permitted to respond and take with him certified copies of certain documents described in the subpoena (H. Res. 601, October 29, 1969, p. 32005); and on the rare occasions where the House has permitted the production of an original paper from its files, it has made explicit provision for its return [H. Res. 1022, 1023 (Jan. 16, 1968, pp. 80-81); H. Res. 1429 (July 27, 1976, pp. 24089-90)]. No officer or employee, except by authority of the House, should produce before any court a paper from the files of the House, nor furnish a copy of any paper except by authority of the House or a statute (III, 2663; VI, 587; April 15, 1948, p. 4552; April 30, 1948, pp. 5161, 5162; May 6, 1948, p. 5432; January 18, 1950, p. 565; February 8, 1950, p. 1695; February 13, 1950, p. 1765; September 22, 1950, p. 15636; April 6, 1951, p. 3403; April 12, 1951, p. 3800; October 20, 1951, p. 13777; March 10, 1954, pp. 3046-47; February 7, 1955, p. 1215; May 7, 1956, p. 7588; December 18, 1974, p. 40925). In the 98th Congress, the House adopted a resolution denying compliance with a subpoena issued by a Federal Court for the production of records in the possession of the Clerk (documents of a select committee from the prior Congress), where the Speaker and joint leadership had instructed the Clerk in the previous Congress not to produce such records and where the Court refused to stay the subpoena or to allow the select committee to intervene to protect its interest; the resolution directed the Counsel to the Clerk to assert the rights and privileges of the House and to take all steps necessary to protect the rights of the House (Apr. 28, 1983, p. ——). On appeal from a subsequent district court judgment finding the Clerk in contempt, the Court of Appeals reversed on the ground that a subpoena to depose a nonparty witness under the Federal Rules of Civil Procedure may only be served in the district (of Maryland) where it was issued. In re Guthrie, 733 F.2d 634 (4th Cir. 1984). Where an official of both Houses of Congress is subpoenaed in his official capacity, the concurrence of both Houses by concurrent resolution is required to permit compliance (H. Con. Res. 342, July 16, 1975, pp. 23144-6).

A resolution routinely adopted up to the 95th Congress provided that when the House had recessed or adjourned Members, officers and employees were authorized to appear in response to subpoenas duces tecum, but prohibited the production of official papers in response thereto; the resolution also provided that when a court found that official papers, other than executive session material, were relevant, the court could obtain copies thereof through the Clerk of the House (see for example H. Res. 12, Jan. 3, 1973, pp. 30–31). In the 95th Congress, the House for the first time by resolution permitted this same type of general response whether or not the House is in session or in adjournment if a court has found that specific documents in possession of the House are material and relevant to judicial proceedings. The House reserved to itself the right to revoke this general permission in any specific case where the House desires to make a different response. (H. Res. 10, Jan. 4, 1977, p. 73; H. Res. 10, Jan. 15, 1979, p. 19). The permission did not apply to executive session material, such as a deposition of a witness in executive session of a committee, which could be released only by a separate resolution passed by the House (H. Res. 296, June 4, 1979, p. 13180). H. Res. 10 of the 96th Congress was clarified and revised later in that Congress by H. Res. 722 (Sept. 17, 1980, pp. 25777–90) and became the basis for Rule L added in the 97th Congress (H. Res. 5, Jan. 5, 1981, pp. 98–113, see §946, infra).

§ 291b. Judicial appearances on behalf of House.

While the statutes provide that the Department of Justice may represent any officer of the House or Senate in the event of judicial proceedings against such officer in relation to the performance of official duties (see 2 U.S.C. 118), and that the Department of Justice shall generally represent the interests of the United States in Court (28 U.S.C. 517), the House has on occasion authorized special appearances on its own behalf by special counsel when the prerogatives or powers of the House have been questioned in the courts. The House has adopted privileged resolutions authorizing the chairman of a subcommittee to intervene in any judicial proceeding concerning subpoenas duces tecum issued by that committee, authorizing the appointment of a special counsel to carry out the purposes of such a resolution, and providing for the payment from the contingent fund of expenses to employ such special counsel (H. Res. 1420, Aug. 26, 1976, pp. 1858-9; H. Res. 334, May 9, 1977, pp. 13949–52), authorizing the Sergeant at Arms to employ a special counsel to represent him in a pending action in federal court in which he was named as a defendant, and providing for the payment from the contingent fund of expenses to employ such counsel (H. Res. 1497, Sept. 2, 1976, p. 28937), and authorizing the Chairman of the Committee on House Administration to intervene as a party in a pending civil action in the U.S. Court of Claims, to defend on behalf of the House the constitutional authority to make laws necessary and proper for executing its constitutional powers, authorizing the employment of special counsel for such purpose, and providing for the payment from the contingent fund of expenses to employ such counsel (H. Res. 884, Nov. 2, 1977, p. 36661). The House has authorized the Speaker to take any steps he considered necessary, including intervention as a party or by submission of briefs amicus curiae, in order to protect the interests of the House before the court (H. Res. 49, Jan. 29, 1981, p. 1304). The House has also on occasion adopted privileged resolutions, reported from the Committee on Rules, authorizing standing or select committees to make applications to courts in connection with their investigations (H. Res. 252, Feb. 9, 1977, pp. 3966-75; H. Res. 760, Sept. 28, 1977, pp. 31329-36; H. Res. 67, Mar. 4, 1981, pp. 3529-33).

§ 292. Attitude of one House as to demands of the other for attendance or papers.

When either House desires the attendance of a Member of the other to give evidence it is the practice to ask the House of which he is a Member that the Member have leave to attend, and the use of a subpoena is of doubtful propriety (III, 1794). But in one case, at least, the Senate did not consider that its privilege forbade the House to summon one of its officers as a witness (III, 1798). But when the Secretary of the Senate was subpoenaed to appear before a committee of the House with certain papers from the files of the Senate, the Senate discussed the question of privilege before empowering him to attend (III, 2665).

§ 293. Power of the House to punish for contempts.

So far there will probably be no difference of opinion as to the privileges of the two Houses of Congress; but in the following cases it is otherwise. In December, 1795, the House of Representatives committed two persons of the name of Randall and Whitney for attempting to corrupt the integrity of certain Members, which they considered as a contempt and breach of the privileges of the House; and the facts being proved, Whitney was detained in confinement a fortnight and Randall three weeks, and was reprimanded by the Speaker. In March, 1796, the House of Representatives voted a challenge given to a Member of their House to be a breach of the privileges of the House; but satisfactory apologies and acknowledgments being made, no further proceeding was had. * * *

§ 294. Decision of the court in Anderson's case.

The cases of Randall and Whitney (II, 1599-1603) were followed in 1818 by the case of John Anderson, a citizen, who for attempted bribery of a Member was arrested, tried, and censured by the House (II, 1606). Anderson appealed to the courts and this procedure finally resulted in a discussion by the Supreme Court of the United States of the right of the House to punish for contempts, and a decision that the House by implication has the power to punish, since "public functionaries must be left at liberty to exercise the powers which the people have intrusted to them," and "the interests and dignity of those who created them require the exertion of the powers indispensable to the attainment of the ends of their creation. Nor is a casual conflict with the rights of particular individuals any reason to be urged against the exercise of such powers" (II, 1607; Anderson *v.* Dunn, 6 Wheaton 204). In 1828 an assault on the President's secretary in the Capitol gave rise to a question of privilege which involved a discussion of the inherent power of the House to punish for contempt (II, 1615). Again in 1832, when the House censured Samuel Houston, a citizen, for assault on a Member for words spoken in debate (II, 1616), there was a discussion by the House of the doctrine of inherent and implied power as opposed to the other doctrine that the House might exercise no authority not expressly conferred on it by the Constitution or the laws of the land (II, 1619). In 1865 the House arrested and censured a citizen for attempted intimidation and assault on a member (II, 1625); in 1866, a citizen who had assaulted the clerk of a committee of the House in the Capitol was arrested by order of the House, but as there was not time to punish in the few remaining days of the session, the Sergeant-at-Arms was directed to turn the prisoner over to the civil authorities of the District of Columbia (II, 1629); and in 1870 one Woods, who had assaulted a Member on his way to the House, was arrested on warrant of the Speaker, arraigned at the bar, and imprisoned for a term extending beyond the adjournment of the session, although not beyond the term of the existing House (II, 1626-1628).

§ 295. Views of the court in Kilbourn's case.

In 1876 the arrest and imprisonment by the House of Hallet Kilbourn, a contumacious witness, resulted in a decision by the Supreme Court of the United States that the House had no general power to punish for contempt, as in a case wherein it was proposing to coerce a witness in an inquiry not within the constitutional authority of the House. The Court also discussed the doctrine of inherent power to punish, saying in conclusion, "We are of opinion that the right of the Houses of Representatives to punish the citizen for a contempt of its authority or a breach of its privileges can derive no support from the precedents and practices of the two Houses of the English Parliament, nor from the adjudged cases in which the English courts have upheld these practices. Nor, taking what has fallen from the English judges, and especially the later cases on which we have just commented, is much aid given to the doctrine, that this power exists as one necessary to enable either House of Congress to exercise successfully their function of legislation. This latter proposition is one that we do not propose to decide in the present case, because we are able to decide it without passing upon the existence or nonexistence of such a power in aid of the legislative function" (103 U.S. 189; II, 1611). In 1894, in the case of Chapman, another contumacious witness, the Supreme Court affirmed the undoubted right of either House of Congress to punish for contempt in cases to which its power properly extends under the expressed terms of the Constitution (II, 1614; In Re Chapman, 166 U.S. 661). The nature of the punishment which the House may inflict was discussed by the Court in Anderson's case (II, 1607; Anderson *v.* Dunn, 6 Wheaton 204).

In the case of Marshall *v.* Gordon, 243 U.S. 521, the Court stated:

§ 296. Decision of the court in Marshall *v.* Gordon.

Appellant while United States Attorney for the Southern District of New York conducted a grand jury investigation which led to the indictment of a Member of the House of Representatives. Acting on charges of misfeasance and nonfeasance made by the Member against appellant in part before the indictment and renewed with additions afterward, the House by resolution directed its Judiciary Committee to make inquiry and report concerning appellant's liability to impeachment. Such inquiry being in progress through a subcommittee, appellant addressed to the subcommittee's chairman, and gave to the press, a letter, charging the subcommittee with an endeavor to probe into and frustrate the action of the grand jury, and couched in terms calculated to arouse the indignation of the members of that committee and those of the House generally. Thereafter, appellant was arrested in New York by the Sergeant at Arms pursuant to a resolution of the House whereby the letter was characterized as defamatory and insulting and as tending to bring that body into public contempt and ridicule, and whereby appellant in writing and publishing such letter was adjudged to be in contempt of the House in violating its privileges, honor, and dignity. He applied for habeas corpus.

The court held that the proceedings concerning which the alleged contempt was committed were not impeachment proceedings; that, whether they were impeachment proceedings or not, the House was without power by its own action, as distinct from such action as might be taken under criminal laws, to arrest or punish for such acts as were committed by appellant.

No express power to punish for contempt was granted to the House of Representatives save the power to deal with contempts committed by its own Members (Art. I, § 5). The possession by Congress of the commingled legislative and judicial authority to punish for contempts which was exerted by the House of Commons is at variance with the view and tendency existing in this country when the Constitution was adopted, as evidenced by the manner in which the subject was treated in many State constitutions, beginning at or about that time and continuing thereafter. Such commingling of powers would be destructive of the basic constitutional distinction between legislative, executive, and judicial power, and repugnant to limitations which the Constitution fixes expressly; hence there is no warrant whatever for implying such a dual power in aid of other powers expressly granted to Congress. The House has implied power to deal directly with contempt so far as is necessary to preserve and exercise the legislative authority expressly granted. Being, however, a power of self-preservation, a means and not an end, the power does not extend to infliction of punishment, as such; it is a power to prevent acts which in and of themselves inherently prevent or obstruct the discharge of legislative duty and to compel the doing of those things which are essential to the performance of the legislative functions. As pointed out in Anderson *v.* Dunn, 6 Wheat., 204 this implied power in its exercise is limited to imprisonment during the session of the body affected by the contempt.

The authority does not cease when the act complained of has been committed, but includes the right to determine in the use of legitimate and fair discretion how far from the nature and character of the act there is necessity for repression to prevent immediate recurrence, i.e., the continued existence of the interference or obstruction to the exercise of legislative power. In such case, unless there be manifest an absolute disregard of discretion, and a mere exertion of arbitrary power coming within the reach of constitutional limitations, the exercise of the authority is not subject to judicial interference. The power is the same in quantity and quality whether exerted on behalf of the impeachment powers or of the others to which it is ancillary. The legislative power to provide by criminal laws for the prosecution and punishment of wrongful acts is not here involved.

The Senate may invoke its civil contempt statute (2 U.S.C. 288d) to direct the Senate legal counsel to bring an action in Federal court to compel a witness to comply with the subpoena of a committee of the Senate. The House, in contrast, may either certify such a witness to the appropriate United States Attorney for possible indictment under the criminal contempt statute (2 U.S.C. 192) or exercise its inherent power to commit for contempt by detaining the recalcitrant witness in the custody of the Sergeant-at-Arms.

(*See also* McGrain *v.* Daugherty, 273 U.S. 135; Sinclair *v.* United States, 279 U.S. 263; Jurney *v.* MacCracken, 294 U.S. 125; Groppi *v.* Leslie, 404 U.S. 496.)

§ 297. Jefferson's statement of arguments for inherent power to punish for contempt.

* * * The editor of the Aurora having, in his paper of February 19, 1800, inserted some paragraphs defamatory of the Senate, and failed in his appearance, he was ordered to be committed. In debating the legality of this order, it was insisted, in support of it, that every man, by the law of nature, and every body of men, possesses the right of self-defense; that all public functionaries are essentially invested with the powers of self-preservation; that they have an inherent right to do all acts necessary to keep themselves in a condition to discharge the trusts confided to them; that whenever authorities are given, the means of carrying them into execution are given by necessary implication; that thus we see the British Parliament exercise the right of punishing contempts; all the State Legislatures exercise the same power, and every court does the same; that, if we have it not, we sit at the mercy of every intruder who may enter our doors or gallery, and, by noise and tumult, render proceeding in business impracticable; that if our tranquillity is to be perpetually disturbed by newspaper defamation, it will not be possible to exercise our functions with the requisite coolness and deliberation; and that we must therefore have a power to punish these disturbers of our peace and proceedings. * * *

§ 298. Statement of arguments against the inherent power to punish for contempts.

* * * To this it was answered, that the Parliament and courts of England have cognizance of contempts by the express provisions of their law; that

the State Legislatures have equal authority because their powers are plenary; they represent their constituents completely, and possess all their powers, except such as their constitutions have expressly denied them; that the courts of the several States have the same powers by the laws of their States, and those of the Federal Government by the same State laws adopted in each State, by a law of Congress; that none of these bodies, therefore, derive those powers from natural or necessary right, but from express law; that Congress have no such natural or necessary power, nor any powers but such as are given them by the Constitution; that that has given them, directly, exemption from personal arrest, exemption from question elsewhere for what is said in their House, and power over their own members and proceedings; for these no further law is necessary, the Constitution being the law; that, moreover, by that article of the Constitution which authorizes them "to make all laws necessary and proper for carrying into execution the powers vested by the Constitution in them," they may provide by law for an undisturbed exercise of their functions, e.g., for the punishment of contempts, of affrays or tumult in their presence, &c.; but, till the law be made, it does not exist; and does not exist, from their own neglect; that, in the meantime, however, they are not unprotected, the ordinary magistrates and courts of law being open and competent to punish all unjustifiable disturbances or defamations, and even their own sergeant, who may appoint deputies ad libitum to aid him *3 Grey, 59, 147, 255,* is equal to small disturbances; that in requiring a previous law, the Constitution had regard to the inviolability of the citizen, as well as of the Member; as, should one House, in the regular form of a bill, aim at too broad privileges, it may be checked by the other, and both by the President; and also as, the law being promulgated, the citizen will know how to avoid offense. But if one branch may assume its own privileges without control, if it may do it on the spur of the occasion, conceal the law in its own breast, and, after the fact committed, make its sentence both the law and the judgment on that fact; if the offense is to be kept undefined and to be declared only ex re nata, and according to the passions of the moment, and there be no limitation either in the manner or measure of the punishment, the condition of the citizen will be perilous indeed. * * *

§ 299. Jefferson's suggestion that a law might define procedure in cases of contempt.

* * * Which of these doctrines is to prevail, time will decide. Where there is no fixed law, the judgment on any particular case is the law of that single case only, and dies with it. When a new and even a similar case arises, the judgment which is to make and at the same time apply to the law, is open to question and consideration, as are all new laws. Perhaps Congress in the mean time, in their care for the safety of the citizen, as well as that for their own protection, may declare by law what is necessary and proper to enable them to carry into execution

the powers vested in them, and thereby hang up a rule for the inspection of all, which may direct the conduct of the citizen, and at the same time test the judgments they shall themselves pronounce in their own case.

In 1837 the House declined to proceed with a bill "defining the offense of a contempt of this House, and to provide for the punishment thereof" (II, 1598). Congress has, however, prescribed that a witness summoned to appear before a committee of either House who does not respond or who refuses to answer a question pertinent to the subject of the inquiry shall be deemed guilty of a misdemeanor (2 U.S.C. 192). A resolution directing the Speaker to certify to the U.S. Attorney the refusal of a witness to respond to a subpoena issued by a House committee may be offered from the floor as privileged, since the privileges of the House are involved, and a committee report to accompany the resolution may therefore be presented to the House without regard to the 3-day availability requirement for other reports [See clause 2(l)(6), Rule XI (July 13, 1971, pp. 24720-23)]. A resolution with two resolve clauses separately directing the certification of the contemptuous conduct of two individuals is subject to a demand for a division of the question as to each individual (Feb. 27, 1986, p. ——; contempt proceedings against Ralph and Joseph Bernstein). In the 97th Congress, the Committee on Energy and Commerce filed a report (H. Rept. 97-898) on proceedings against the Secretary of the Interior James G. Watt for withholding subpoenaed documents and for failure to answer questions relating to reciprocity under the Mineral Lands Leasing Act. Also in the 97th Congress, the House adopted a resolution directing the Speaker to certify to the United States Attorney the failure of an official of the executive branch (Anne M. Gorsuch, Administrator, Environmental Protection Agency) to submit executive branch documents to a House subcommittee pursuant to a subcommittee subpoena; this was the first occasion on which the House cited an executive official for contempt of Congress (H. Res. 632, Dec. 16, 1982, p. 31754). In the following Congress, the 98th, the House adopted (as a question of privilege) a resolution reported from the same committee certifying to the United States Attorney the fact that an agreement has been entered into between the committee and the Executive Branch for access by the committee to the documents which Anne Gorsuch had failed to submit and which were the subject of the contempt citation (where the contempt had not yet been prosecuted) (Aug. 3, 1983, p. ——). In other cases where subsequent compliance had been accomplished in the same Congress, the House has adopted privileged resolutions certifying the facts to the United States Attorney to the end that contempt proceedings be discontinued (see Deschler's Precedents ch. 15, sec. 21). In the 98th Congress, the House adopted a privileged resolution directing the Speaker to certify to the United States Attorney the refusal of a former official of the executive branch to obey a subpoena to testify before a subcommittee (H. Res. 200, May 18, 1983, p. ——).

§ 300. Status of Member-elect as to privilege, oath, committee service, etc.

Privilege from arrest takes place by force of the election; and before a return be made a Member elected may be named of a committee, and is to every extent a Member except that he cannot vote until he is sworn, *Memor., 107, 108. D'Ewes, 642, col. 2; 643, col. 1. Pet. Miscel. Parl., 119. Lex. Parl., c. 23.2 Hats., 22, 62.*

The Constitution of the United States limits the broad Parliamentary privilege to the time of attendance on sessions of Congress, and of going to and returning therefrom. In a case wherein a Member was imprisoned during a recess of Congress, he remained in confinement until the House, on assembling, liberated him (III, 2676).

It is recognized in the practice of the House that a Member may be named to a committee before he is sworn, and in some cases Members have not taken the oath until long afterwards (IV, 4483), although in the modern practice Members-elect have been elected to standing committees effective only when sworn (H. Res. 26, 27; Jan. 6, 1983, p. 132). In one case, wherein a Member did not appear to take the oath, the Speaker with the consent of the House appointed another Member to the committee place (IV, 4484). The status of a Member-elect under the Constitution undoubtedly differs greatly from the status of a Member-elect under the law of Parliament. In various inquiries by committees of the House this question has been examined, with the conclusions that a Member-elect becomes a Member from the very beginning of the term to which he was elected (I, 500), that he is as much an officer of the Government before taking the oath as afterwards (I, 185), and that his status is distinguished from that of a Member who has qualified (I, 183, 184). Members-elect may resign or decline before taking the oath (II, 1230–1233, 1235); they have been excluded (I, 449, 464, 474, 550, 551; VI, 56; Mar. 1, 1967, pp. 4997–5038), and in one case a Member-elect was expelled (I, 476; II, 1262). The names of Members who have not been sworn are not entered on the roll from which the yeas and nays are called for entry on the Journal (V, 6048; VIII, 3122), nor are such Members-elect permitted to vote or introduce bills.

§ 301. Relations of Members and others to privilege.

Every man must, at his peril, take notice who are members of either House returned of record. *Lex. Parl., 23; 4 Inst., 24.*

On Complaint of a breach of privilege, the party may either be summoned, or sent for in custody of the sergeant. *1 Grey, 88, 95.*

The privilege of a Member is the privilege of the House. If the Member waive it without leave, it is a ground for punishing him, but cannot in effect waive the privilege of the House. *3 Grey, 140, 222.*

Although the privilege of Members of the House of Representatives is limited by the Constitution, these provisions of the Parliamentary law are applicable, and persons who have attempted to bribe Members (II, 1599, 1606), assault them for words spoken in debate (II, 1617, 1625) or interfere with them while on the way to attend the sessions of the House (II, 1626), have been arrested by order of the House by the Sergeant-at-Arms, "Wherever to be found." The House has declined to make a general rule to permit Members to waive their privilege in certain cases, preferring to give or refuse permission in each individual case (III, 2660–2662).

In United States *v.* Helstoski, 42 U.S. 477 (1979), the Supreme Court discussed the ability of either an individual Member or the entire Congress to waive the protection of the Speech or Debate Clause. The Court found first, that the Member's conduct in testifying before a grand jury and voluntarily producing documentary evidence of legislative acts protected by the Clause did not waive its protection. Assuming, without deciding, that a Member could waive the Clause's protection against being prosecuted for a legislative act, the Court said that such a waiver could only be found after an explicit and unequivocal renunciation of its immunity, which was absent in this case. Second, passage of the official bribery statute, 18 U.S.C. § 201, did not amount to an institutional waiver of the Speech or Debate Clause for individual Members. Again assuming without deciding whether Congress could constitutionally waive the Clause for individual Members, such a waiver could be shown only by an explicit and unequivocal expression of legislative intent, and there was no evidence of that in the legislative history of the statute.

For any speech or debate in either House, they shall not be questioned in any other place. *Const. U.S., I, 6; S. P. protest of the Commons to James I, 1621; 2 Rapin, No. 54 pp., 211, 212.* But this is restrained to things done in the House in a parliamentary course. *1 Rush, 663.* For he is not to have privilege contra morem parliamentarium, to exceed the bounds and limits of his place and duty. *Com. p.*

§ 302. Parliamentary law as to questioning a Member in another place for speech or debate.

If an offense be committed by a member in the House, of which the House has cognizance, it is an infringement of their right for any person or court to take notice of it till the House has punished the offender or referred him to a due course. *Lex. Parl., 63.*

§ 303. Relation of the courts to parliamentary privilege.

Privilege is in the power of the House, and is a restraint to the proceeding of inferior courts, but not of the House itself. *2 Nalson, 450; 2 Grey, 399.* For whatever is spoken in the House is subject to the censure of the House; and offenses of this kind have been severely punished by calling the person to the bar to make submission, committing him to the tower, expelling the House, &c. *Scob., 72; L. Parl., c. 22.*

§ 304. Breach of privilege to refuse to put a question which is in order.

It is a breach of order for the Speaker to refuse to put a question which is in order. *1 Hats., 175–6; 5 Grey, 133.*

Where the Clerk, presiding during organization of the House, declined to put a question, a Member put the question from the floor (I, 67).

§ 305. Parliamentary law of privilege as related to treason, felony, etc.

And even in cases of treason, felony, and breach of the peace, to which privilege does not extend as to substance, yet in Parliament a member is privileged as to the mode of proceeding. The case is first to be laid before the House, that it may judge of the fact and of the ground of the accusation, and how far forth the manner of the trial may concern their privilege; otherwise it would be in the power of other branches of the government, and even of every private man, under pretenses of treason, &c., to take any man from his service in the House, and so, as many, one after another, as would make the House what he pleaseth. *Dec'l of the Com. on the King's declaring Sir John Hotham a traitor. 4 Rushw., 586.* So, when a member stood indicted for felony, it was adjudged that he ought to remain of the House till conviction; for it may be any man's case, who is guiltless, to be accused and indicted of felony, or the like crime. *23 El., 1580; D'Ewes, 283, col. 1; Lex. Parl., 133.*

Where Members of the House of Representatives have been arrested by the State authorities the cases have not been laid first before the House; but when the House has learned of the proceedings, it has investigated to ascertain if the crime charged was actually within the exceptions of the Constitution (III, 2673), and in one case where it found a Member imprisoned for an offense not within the exceptions it released him by the hands of its own officer (III, 2676).

§ 306. Practice as to Members indicted or convicted.

The House has not usually taken action in the infrequent instances where Members have been indicted for felony, and in one or two instances Members under indictment or pending appeal on conviction have been appointed to committees (IV, 4479). The House has, however, adopted a resolution expressing the sense of the House that Members convicted of certain felonies should refrain from participation in committee business and from voting in the House until the presumption of innocence is reinstated or until re-elected to the House (see H. Res. 128, Nov. 14, 1973, p. 36944), and that principle has been incorporated in the Code of Official Conduct (Rule XLIII, clause 10). A Senator after indictment was omitted from committees at his own request (IV, 4479), and a Member who had been convicted in one case did not appear in the House during the Congress (IV, 4484, footnote). A Senator in one case withdrew from the Senate pending his trial (II, 1278), and on conviction resigned (II, 1282). In this case the Senate, after the conviction, took steps looking to action although an application for rehearing on appeal was pending (II, 1282).

§ 307. Parliamentary law as to arrest of a Member.

When it is found necessary for the public service to put a Member under arrest, or when, on any public inquiry, matter comes out which may lead to affect the person of a member, it is the practice immediately to acquaint the House, that they may know the reasons for such a proceeding, and take such steps as they think proper. *2 Hats., 259.* Of which see many examples. *Ib., 256, 257, 258.* But the communication is subsequent to the arrest. *1 Blackst., 167.*

§ 308. A breach of privilege for one House to encroach or interfere as to the other.

It is highly expedient, says Hatsel, for the due preservation of the privileges of the separate branches of the legislature, that neither should encroach on the other, or interfere in any matter depending before them, so as to preclude, or even influence, that freedom of debate which is essential to a free council. They are, therefore, not to take notice of any bills or other matters depending, or of votes that have been given, or of speeches which have been held, by the members of either of the other branches of the legislature, until the same have been communicated to them in the usual parliamentary manner. *2 Hats., 252; 4 Inst., 15; Seld. Jud., 53.*

§ 309. Relations of the Sovereign to the Parliament and its Members.

Thus the King's taking notice of the bill for suppressing soldiers, depending before the House; his proposing a provisional clause for a bill before it was presented to him by the two Houses; his expressing displeasure against some persons for matters moved in Parliament during the debate and preparation of a bill, were breaches of privilege, *2 Nalson, 743;* and in 1783, December 17, it was declared a breach of fundamental privileges, &c., to report any opinion or pretended opinion of the King on any bill or proceeding depending in either House of Parliament, with a view to influence the votes of the members, *2 Hats., 251, 6.*

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SEC. VI.—QUORUM.

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§ 310. Necessity of a quorum during business, including debate.

In general the chair is not to be taken till a quorum for business is present; unless, after due waiting, such a quorum be despaired of, when the chair may be taken and the House adjourned. And whenever, during business, it is observed that a quorum is not present, any member may call for the House to be counted, and being found deficient, business is suspended. *2 Hats., 125, 126.*

In the House of Representatives the Speaker takes the Chair at the hour to which the House stood adjourned and there is no requirement that the House proceed immediately to establish a quorum, although the Speaker has the authority under Rule XV, clause 6, to recognize for a call of the House at any time. The question of a quorum is not considered unless properly raised (IV, 2733; VI, 624), and it is not in order for the Speaker to recognize for a point of no quorum unless he has put the pending question or proposition to a vote. While it was formerly the rule that a quorum was necessary for debate as well as business (IV, 2935–2949), under the procedure put in effect in the 95th Congress such is not the case. In the 94th Congress, it was established by rule that certain proceedings in the House did not require a quorum (Rule XV, clause 6).

SEC. VII.—CALL OF THE HOUSE.

§ 311. Parliamentary rules for call of the House.

On the call of the House, each person rises up as he is called, and answereth; the absentees are then only noted, but no excuse to be made till the House be fully called over. Then the absentees are called a second time, and if still absent, excuses are to be heard. *Ord. House of Commons, 92.*

They rise that their persons may be recognized; the voice, in such a crowd, being an insufficient verification of their presence. But in so small a body as the Senate of the United States, the trouble of rising cannot be necessary.

Orders for calls on different days may subsist at the same time. *2 Hats., 72.*

Rule XV of the House of Representatives provides for a procedure on call of the House. Members of the House do not rise on answering.

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SEC. IX.—SPEAKER.

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§ 312. Election of Speaker.

When but one person is proposed, and no objection made, it has not been usual in Parliament to put any question to the House; but without a question the members proposing him conduct him to the chair. But if there be objection, or another proposed, a question is put by the Clerk. *2 Hats., 158.* As are also questions of adjournment. *6 Gray, 406.* Where the House debated and exchanged messages and answers with the King for a week without a Speaker, till they were prorogued. They have done it de die in diem for fourteen days. *1 Chand., 331, 335.*

The Speaker of the House of Representatives was first chosen by ballot, but since 1839 has been chosen by a viva voce vote on a roll call (I, 187, 211). The Clerk appoints tellers for this election (I, 217), but the House, and not the Clerk, decides by what method it shall elect (I, 210). The motion to proceed to the election of Speaker is privileged (I, 212, 214; VIII, 3883), and debatable unless the previous question be ordered (I, 213). In 1860 the voting for Speaker proceeded slowly, being interspersed with debate (I, 223), and in one instance the House asked candidates for Speaker to state their views before proceeding to election (I, 218). In 1809 it was held that the Speaker should be elected by a majority of all present (I, 215), and in 1879 that he might be elected by a majority of those present, if a quorum, and that a majority of all the Members was not required (I, 216). In two instances the House chose a Speaker by plurality of votes, but confirmed the choice by majority vote (I, 221). On several occasions the choice of Speaker has been delayed for several weeks by contests (I, 222; V, 5356, 6647, 6649; VI, 24).

§ 313. Election of President pro tempore of the Senate.

In the Senate, a President pro tempore, in the absence of the Vice-President, is proposed and chosen by ballot. His office is understood to be determined on the Vice-President's appearing and taking the chair, or at the meeting of the Senate after the first recess.

In the later practice the President pro tempore has usually been chosen by resolution. In 1876 the Senate determined that the tenure of office of a President pro tempore elected at one session does not expire at the meeting of Congress after the first recess, the Vice-President not having appeared to take the chair; that the death of the Vice-President does not have the effect to vacate the office of President pro tempore; and that the President pro tempore holds office at the pleasure of the Senate (II, 1417).

§ 314. Parliamentary law as to choice of Speaker pro tempore.

Where the Speaker has been ill, other Speakers pro tempore have been appointed. Instances of this are *1 H., 4.* Sir John Cheyney, and Sir William Sturton, and in *15 H., 6.* Sir John Tyrrel, in 1656, January 27; 1658, March 9; 1659, January 13.

Sir Job Charlton ill, Seymour chosen, 1673, February 18.

Seymour being ill, Sir Robert Sawyer chosen, 1678, April 15.

Not merely pro tempore. *1 Chand., 169, 276, 277.*

Sawyer being ill, Seymour chosen.

Thorpe in execution, a new Speaker chosen, *31 H. VI, 3 Grey, 11;* and March 14, 1694, Sir John Trevor chosen. There have been no later instances. *2 Hats., 161; 4 Inst., 8; L. Parl., 263.*

The House of Representatives, by Rule I, clause 7, has provided for appointment and election of Speakers pro tempore.

§ 315. Removal of the Speaker.

A Speaker may be removed at the will of the House, and a Speaker pro tempore appointed, *2 Grey, 186; 5 Grey, 134.*

The House of Representatives has never removed a Speaker; but it had on several occasions removed or suspended other officers, as Clerk and Doorkeeper (I, 287–290, 292; II, 1417), who are officers classed by the Constitution in the phrase "the House of Representatives shall choose their Speaker and other officers." A resolution for the removal of an officer is presented as a matter of privilege (I, 284–286; VI, 35), and a resolution declaring the office of Speaker vacant presents a question of constitutional privilege (VI, 35).

SEC. X.—ADDRESS.

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§ 316. Addresses to the President.

A joint address of both Houses of Parliament is read by the Speaker of the House of Lords. It may be attended by both Houses in a body, or by a Committee from each House, or by the two Speakers only. An address of the House of Commons only may be presented by the Whole House, or by the Speaker, *9 Grey, 473; 1 Chandler, 298, 301;* or by such particular members as are of the privy council. *2 Hats., 278.*

In the first years of Congress the President annually delivered an address to the two Houses in joint session, and the House of Representatives then prepared an address, which the Speaker, attended by the House, carried to the President. A joint rule of 1789 also provided for the presentation of joint addresses of the two Houses to the President (V, 6630). In 1876 the joint rules of the House were abrogated, including the joint rule providing for presentation of the joint addresses of the two Houses to the President (V, 6782–6787). In 1801 President Jefferson transmitted a message "in writing" and discontinued the practice of making addresses in person. From 1801 to 1913 all messages were sent in writing (V, 6629), but President Wilson resumed the custom of making addresses in person on April 8, 1913, and, with the exception of President Hoover (VIII, 3333), the custom has been followed generally by subsequent Presidents.

SEC. XI.—COMMITTEES.

§ 317. Appointment of standing committees; and designation and duties of chairmen thereof.

Standing committees, as of Privileges and Elections, &c., are usually appointed at the first meeting, to continue through the session. The person first named is generally permitted to act as chairman. But this is a matter of courtesy; every committee having a right to elect their own chairman, who presides over them, puts questions, and reports their proceedings to the House. *4 inst., 11, 12; Scob., 9; 1 Grey, 122.*

Prior to the Sixty-second Congress, standing as well as select committees and their chairmen were appointed by the Speaker, but under the present form of Rule X, adopted in 1911, continued as a part of the Legislative Reorganization Act of 1946, and revised effective January 3, 1975 (H. Res. 988, 93rd Congress, p. 34470), standing committees and their respective chairmen are elected by the House (IV. 4448; VIII, 2178). Owing to their number and size, committees are not usually elected immediately, but resolutions providing for such elections are presented by the majority and minority parties as soon as they are able to perfect the lists. A committee may order its report to be made by the chairman, or by some other member (IV, 4669), even by a member of the minority party (IV, 4672, 4673), or by a delegate, July 1, 1958 (Burns of Hawaii) p. 12871; and the chairman sometimes submits a report in which he has not concurred (IV, 4670). Clause 2(l)(1)(A), Rule XI, requires that a report which has been approved by the committee must be filed with the House within seven calendar days after a written request from a majority of the committee is submitted to the committee clerk.

§ 318. Parliamentary law as to debate in standing and select committees.

At these committees the members are to speak standing, and not sitting; though there is reason to conjecture it was formerly otherwise. *D'Ewes, 630, col. 1; 4 Parl. Hist., 440; 2 Hats., 77.*

§ 319. Secrecy of committee procedure.

Their proceedings are not to be published, as they are of no force till confirmed by the House. *Rushw., part 3, vol. 2, 74; 3 Grey, 401; Scob., 39.* * * *

In the House of Representatives it is entirely within rule and usage for a committee to conduct its proceedings in secret (IV, 4558–4564; *see also* clause 2(g), Rule XI), and the House itself may not abrogate the secrecy of a committee's proceedings except by suspending the rule (IV, 4565). The House has no information concerning the proceedings of a committee not officially reported by the committee (VII, 1015) and it is not in order in debate to refer to executive session proceedings of a committee which have not formally been reported to the House (V, 5080–5083; VIII, 2269, 2485, 2493, June 24, 1958, pp. 12120, 12122; Apr. 5, 1967, pp. 8411–2). A member was, however, permitted to refer to the unreported proceedings of a subcommittee to justify his point of order that a resolution providing for a select committee to inquire into action of the subcommittee was not privileged (June 30, 1958, pp. 12690–91). In one case the House authorized the clerk of a committee to disclose by deposition its proceedings (III, 2604). Where a committee takes testimony it is sometimes very desirable that the proceedings be secret (III, 1694), as in the investigation in the Bank of the United States in 1834, when the committee determined that its proceedings should be confidential, not to be attended by any person not invited or required (III, 1732). It is for the committee to determine, in its discretion, whether the proceedings of the committee shall be open or not [clause 2(g), Rule XI]. Thus, in the case of Roberts, the committee permitted its meetings to be attended by the public, and allowed its proceedings to be published (I, 475, footnote).

Under Rule XI, clauses 2(a)(1) and 2(g) (1) and (2), all hearings and business meetings conducted by standing committees shall be open to the public, except when a committee, in open session, by roll call vote, with a majority present, determines to close the meeting or hearing for that day.

§ 320. Reception of petitions by committees.

* * * Nor can they receive a petition but through the House. *9 Grey, 412.*

§ 321. Parliamentary law of procedure when a committee inquiry involves a Member.

When a committee is charged with an inquiry, if a Member prove to be involved, they can not proceed against him but must make a special report to the House; whereupon the Member is heard in his place, or at the bar, or a special authority is given to the committee to inquire concerning him. *9 Grey, 523.*

§ 322. Practice of House when a committee inquiry involves a Member.

While the authority of this principle has not been questioned by the House, there have in special instances been deviations from it. Thus, in 1832, when a Member had been slain in a duel, and the fact was notorious that all the principals and seconds were Members of the House, the committee, charged only with investigating the causes and whether or not there had been a breach of privilege, reported with their findings recommendations for expulsion and censure of the Members found to be implicated. There was criticism of this method of procedure as deviating from the rule of Jefferson's Manual, but the House did not recommit the report (II, 1644). In 1857, when a committee charged with inquiring into accusations against Members not named found certain Members implicated, they gave them copies of the testimony and opportunities to explain to the committee, under oath or otherwise, as they individually might prefer (III, 1845), but reported recommendations for expulsion without first seeking the order of the House (II, 1275; III, 1844). In 1859 and 1892 a similar procedure occurred (III, 1831, 2637). But the House, in a case wherein an inquiry had incidentally involved a Member, evidently considered the parliamentary law as applicable, since it admitted as of privilege and agreed to a resolution directing the committee to report the charges (III, 1843). And in cases wherein testimony taken before a joint committee incidentally impeached the official characters of a Member and a Senator, the facts in each case were reported to the House interested (III, 1854). A select committee, appointed to report upon the right of a Member-elect to be sworn (H. Res. 1, 90th Cong., pp. 14-27, Jan. 10, 1967), invited him to appear, to testify, and permitted him to be accompanied by counsel (see H. Rept. 90-27).

§ 323. Inquiries involving Members of other House.

And where one House, by its committee, has found a Member of the other implicated, the testimony has been transmitted (II, 1276; III, 1850, 1852, 1853). Where such testimony was taken in open session of the committee, it was not thought necessary that it be under seal when sent to the other House (III, 1851).

§ 324. Duty of chairman of a committee when the House sits.

So soon as the House sits, and a committee is notified of it, the chairman is in duty bound to rise instantly, and the members to attend the service of the House. *2 Nals., 319.*

Rule XI, clause 2(i) provides that the Committees on Appropriations, Budget, House Administration, Rules, Standards of Official Conduct, and Ways and Means may sit, without special leave, even when the House is reading a measure for amendment under the five-minute rule (§ 710). Requests that other committees have leave to sit during the five-minute rule are effective unless ten or more Members object. Leave for a committee to sit during sessions of the House does not release its members from liability to arrest during a call of the House (IV, 3020).

§ 325. Action of joint committees.

It appears that on joint committees of the Lords and Commons each committee acted integrally in the following instances: *7 Grey, 261, 278, 285, 338; 1 Chandler, 357, 462.* In the following instances it does not appear whether they did or not: *6 Grey, 129; 7 Grey, 213, 229, 321.*

It is the practice in Congress that joint committees shall vote per capita, and not as representatives of the two Houses (IV, 4425), although the membership from the House of Representatives is usually, but not always (IV 4410), larger than that from the Senate (III, 1946; IV, 4426-4431). But ordinary committees of conference appointed to settle differences between the two Houses are not considered joint committees, and the managers of the two Houses vote separately (V, 6336). A quorum of a joint committee seems to have been considered to be a majority of the whole number rather than a majority of the membership of each House (IV, 4424). The first named of the Senate members acted as chairman in one notable instance (IV, 4424), and in another the joint committee elected its chairman (IV, 4447).

SEC. XII.—COMMITTEE OF THE WHOLE.

§ 326. Parliamentary usage as to Committee of the Whole.

The speech, messages, and other matters of great concernment are usually referred to a Committee of the Whole House (*6 Grey, 311*), where general principles are digested in the form of resolutions, which are debated and amended till they get into a shape which meets the approbation of a majority. These being reported and confirmed by the House are then referred to one or more select committees, according as the subject divides itself into one or more bills. *Scob., 36, 44.* Propositions for any charge on the people are especially to be first made in a Committee of the Whole. *3 Hats., 127.* The sense of the whole is better taken in committee, because in all committees everyone speaks as often as he pleases. *Scob., 49.* * * *

This provision is largely obsolete, the House of Representatives having by its rules and practice provided specifically for procedure in Committee of the Whole, and having also by its rules for the order of business left no privileged status for motions to go into Committee of the Whole on matters not already referred to that committee. The Committee of the Whole no longer originates resolutions or bills, but receives such as have been formulated by standing or select committees and referred to it; and when it reports, the House usually acts at once on the report without reference to select or other committees (IV, 4705). The practice of referring annual messages of the President to Committee of the Whole, to be there considered and reported with recommendations for the reference of various portions to the proper standing or select committees (V, 6621, 6622), was discontinued in the Sixty-fourth Congress (VIII, 3350). The current practice is to refer the annual message to the Committee of the Whole House on the state of the Union and order it printed (Jan. 14, 1969, p. 651). Executive communications submitted to implement the proposals contained in the State of the Union Message are referred by the Speaker to the various committees having jurisdiction over the subject matter therein.

§ 327. Selection of chairman of Committee of the Whole.

* * * They generally acquiesce in the chairman named by the Speaker; but, as well as all other committees, have a right to elect one, some member, by consent, putting the question, *Scob., 36; 3 Grey, 301.* * * *

The House of Representatives (by Rule XXIII, clause 1) gives the authority to appoint the Chairman of the Committee of the Whole to the Speaker (IV, 4704).

§ 328. Form of going into Committee of the Whole.

* * * The form of going from the House into committee, is for the Speaker, on motion, to put the question that the House do now resolve itself into a Committee of the Whole to take into consideration such a matter, naming it. If determined in the affirmative, he leaves the chair and takes a seat elsewhere, as any other Member; and the person appointed chairman seats himself at the Clerk's table. *Scob., 36.* * * *

This is the form in the House of Representatives, except that the Chairman of the Committee of the Whole seats himself in the Speaker's chair. In the 97th Congress, clause 1(b) was added to Rule XXIII to authorize the Speaker, when no other business is pending, to declare the House resolved into Committee of the Whole to consider a measure at any time after the House has adopted a special order providing for consideration of such measure, unless the resolution specifies otherwise (H. Res. 5, Jan. 3, 1983, p. 34).

§ 329. Quorum in Committee of the Whole.

* * * Their quorum is the same as that of the House; and if a defect happens, the chairman, on a motion and question, rises, the Speaker resumes the chair and the chairman can make no other report than to inform the House of the cause of their dissolution. * * *

Until 1890 a quorum of the Committees of the Whole was the same as the quorum of the House; but in 1890 the rule (XXIII, clause 2) fixed it at one hundred (IV, 2966). Rules XXIII, clause 2, and XV, clause 5 and clause 2, provide the procedures which are followed in Committees of the Whole in case of failure of a quorum.

§ 330. Rising of committee for reception of messages.

* * * If a message is announced during a committee, the Speaker takes the chair and receives it, because the committee can not. *2 Hats., 125, 126.*

In the House of Representatives the committee rises informally to receive a message, without question being put (IV, 4786, footnote); but at this rising the House may not have the message read or transact other business except by unanimous consent (IV, 4787–4791).

§ 331. Quarrels in Committee of the Whole, and duty of the Speaker in relation thereto.

In a Committee of the Whole, the tellers on a division differing as to numbers, great heats and confusion arose, and danger of a decision by the sword. The Speaker took the chair, the mace was forcibly laid on the table; whereupon the Members retiring to their places, the Speaker told the House "he has taken the chair without an order to bring the House into order." Some excepted against it; but it was generally approved as the only expedient to suppress the disorder. And every Member was required, standing up in his place, to engage that he would proceed no further in consequence of what had happened in the grand committee, which was done. *3 Grey, 128.*

In the House of Representatives the Speaker has on several occasions taken the chair "without an order to bring the House into order" (II, 1648–1653), but that being accomplished he may yield to the chairman that the committee may rise in due form (II, 1349). In one instance, a Member having defied and insulted the chairman, he left the chair, and, on the chair being taken by the Speaker, reported the facts to the House (II, 1653). In several cases Members who have quarrelled have made explanation and reconciled their difficulties (II, 1651), or have been compelled by the House to apologize "for violating its privilege and offending its dignity" (II, 1648, 1650).

In the House of Representatives one-fifth of a quorum orders tellers.

§ 332. Effect of breaking up of Committee of the Whole by disorder.

A Committee of the Whole being broken up in disorder, and the chair resumed by the Speaker without an order, the House was adjourned. The next day the committee was considered as thereby dissolved, and the subject again before the House; and it was decided in the House, without returning into committee. *3 Grey, 130.*

This provision is obsolete, since in the practice of the House of Representatives there are but two committees of the whole, which are in their nature standing committees, with calendars of business. They are never dissolved, and bills remain on their calendars until reported in the regular manner after consideration (IV, 4705). When the Speaker restores order he usually yields the chair to the chairman, thus permitting the committee later to rise in due form (II, 1349).

§ 333. Motions for previous question and to adjourn not used in Committee of the Whole.

No previous question can be put in a committee; nor can this committee adjourn as others may; but if their business is unfinished, they rise, on a question, the House is resumed, and the chairman reports that the Committee of the Whole have, according to order, had under their consideration such a matter, and have made

§ 334. Parliamentary law as to reports from Committee of the Whole.

progress therein; but not having had time to go through the same, have directed him to ask leave to sit again. Whereupon a question is put on their having leave, and on the time the House will again resolve itself into a committee. *Scob., 38.* But if they have gone through the matter referred to them, a member moves that the committee may rise, and the chairman report their proceedings to the House; which being resolved, the chairman rises, the Speaker resumes the chair, the chairman informs him that the committee have gone through the business referred to them, and that he is ready to make report when the House shall think proper to receive it. If the House have time to receive it, there is usually a cry of "now, now," whereupon he makes the report; but if it be late, the cry is "to-morrow, to-morrow," or "Monday," etc., or a motion is made to that effect, and a question put that it be received to-morrow, &c. *Scob., 38.*

In the practice of the House the previous question and motion to adjourn are not admitted in Committee of the Whole; but the rules (XXIII, clause 5, 6) provide for closing both the general and five-minute debate. When the committee rises without concluding a matter the chairman reports that they "have come to no resolution thereon;" but leave to sit again is not asked in the modern practice. Nor is permission of the House asked when the chairman reports a matter concluded in committee. The report is made and received as a matter of course, and in thereupon before the House for action. When the House has vested control of general debate in certain Members, their control may not be abrogated during general debate by another Member moving to rise, unless they yield for that purpose (May 25, 1967, p. 14121), nor may Members yielded time in general debate yield to another for such motion (Feb. 22, 1950, p. 2178). The motion that the Committee of the Whole rise is privileged during debate under the five-minute rule, and may be offered during debate on a pending amendment, except where a Member has the floor (Aug. 13, 1986, p. ——).

§ 335. Duties of Speaker and House as to reception of reports of Committee of the Whole.

The Speaker recognizes only reports from the Committee of the Whole made by the chairman thereof (V, 6987), and a matter alleged to have arisen therein but not reported may not be brought to the attention of the House (VIII, 2429, 2430) even on the claim that a question of privilege is involved (IV, 4912; V, 6987; VIII, 2430). In one instance, however, the committee reported with a bill a resolution relating to an alleged breach of privilege (V, 6986). When a bill is reported the Speaker must assume that it has passed through all the stages necessary for the report (IV, 4916). When the committee reported not only what it had done but by whom it had been prevented from doing other things, the Speaker held that the House might not amend the report, which stood (IV, 4909). But a committee may not report a recommendation which, if carried into effect, would change a rule of the House (IV, 4907, 4908) unless a measure proposing amendments to House rules has initially been referred to the Committee of the Whole by the House. When an amendment is reported by the committee it may not be withdrawn, and a question as to its validity is not considered by the Speaker (IV, 4900). When a committee, directed by order of the House to consider certain bills, reported also certain other bills, the Speaker held that so much of the report as related to the latter bills could be received only by unanimous consent (IV, 4911). When a report is ruled out as in excess of the committee's power, the accompanying bill stands recommitted (IV, 4784, 4907). A report from a Committee of the Whole could not formerly be received in the absence of a quorum (VI, 666; see Rule XV, clause 6). The Committee of the Whole, like any other

§ 336. Amendments in Committee of the Whole.

committee, may amend a proposition either by an ordinary amendment or by a substitute amendment (IV, 4899), but these amendments must be reported to the House for action. Amendments rejected by the committee are not reported (IV, 4877). Ordinarily all amendments must be disposed of before the committee may report (IV, 4752–4758); but sometimes a special order requires a report at a specified time, in which case pending amendments are reported (IV, 3225–3228) or not (IV, 4910) as the terms of the order may direct. In the 98th Congress, clause 2 of Rule XXI was amended to give precedence to the motion that the Committee rise and report a general appropriation bill at the conclusion of its reading for amendment and prior to or between consideration of amendments proposing certain limitations or retrenchments (H. Res. 5, Jan. 3, 1983, p. 34). The practice of the House, based originally on a rule (IV, 4904), requires amendments to be reported from the Committee of the Whole in their perfected forms, and this holds good even in the case of an amendment in the nature of a substitute, which may have been amended freely (IV, 4900–4903). If a Committee of the Whole amend a paragraph and subsequently strike out the paragraph as amended, the first amendment fails, and is not reported to the House or voted on (IV, 4898; V, 6169; VIII, 2421, 2426), and when the Committee of the Whole adopts two amendments that are subsequently deleted by an amendment striking out and inserting new text, only the latter amendment is reported to the House (June 20, 1967, pp. 16497, 16498). Normally, if the Committee of the Whole perfects a bill by adopting certain amendments and then adopts an amendment striking out all after section one of the bill and inserting a new text, only the bill, as amended by the motion to strike out and insert, is reported to the House; but when the bill is being considered under a special rule permitting a separate vote in the House on any of the amendments adopted in the Committee of the Whole to the bill or the committee substitute, all amendments adopted in the Committee are reported to the House regardless of their consistency (May 26, 1960, pp. 11302–04). Where a separate vote is demanded in this type of situation in the House only on an amendment striking out a section of a committee substitute, but not on perfecting amendments which have been previously adopted in Committee of the Whole to that section, rejection in the House of the motion to strike the section results in a vote on the committee substitute in its original form and not as perfected, since the perfecting amendments have been displaced in the Committee of the Whole and have not been revived on a separate vote in the House (Speaker O'Neill, Oct. 13, 1977, pp. 33622–4). But where the Committee of the Whole reports a bill to the House with an adopted amendment in the nature of a substitute and the special order in question does not provide for separate House votes on amendments thereto, a separate vote may not be demanded on an amendment to such amendment, since only one amendment in its perfected form has been reported back to the House (Nov. 17, 1983, p. ——).

§ 337. Committee of the Whole amendments in the House.

All amendments to a bill reported from the Committee of the Whole stand on an equal footing and must be voted on by the House (IV, 4871) in the order in which they are reported, although they may be inconsistent, one with another (IV, 4881, 4882), and are subject to amendment in the House unless the previous question is ordered (VIII, 2419). Two amendments being reported as distinct were considered independently, although apparently one was a proviso attaching to the other (IV, 4905); and an entire and distinct amendment may not be divided, but must be voted on by the House as a whole (IV, 4883–4892; VIII, 2426). It is a frequent practice for the House by unanimous consent, to act at once on all the amendments to a bill reported from the Committee of the Whole, but it is the right of any Member to demand a separate vote on any amendment (IV, 4893, 4894; VIII, 2419). Where a special rule permits en bloc consideration of certain amendments in Committee of the Whole, those amendments if reported back to the

House may also be considered en bloc for a separate vote in the House on demand of any Member (Speaker O'Neill, Sept. 7, 1978, p. 28425). A Member may demand a separate vote in the House on an amendment to a committee amendment in the nature of a substitute adopted in the Committee of the Whole where the bill is being considered under a special rule permitting separate votes in the House on any of the amendments adopted in the Committee of the Whole to the bill or committee amendment (Sept. 30, 1971, p. 34337). A Member may withdraw his demand for a separate vote in the House on an amendment reported from Committee of the Whole prior to the Speaker's putting the question thereon, and unanimous consent is not required (May 28, 1987, p. ——). When demand is made for separate votes in the House on several amendments adopted in the Committee of the Whole, the amendments are voted on in the House in the order in which they appear in the bill (July 24, 1968, pp. 23093-95; May 28, 1987, p. ——). When a bill is reported with amendments, it is in order to submit additional amendments, but the first question is on the committee amendments (IV, 4872-4876); but the opportunity to debate or make additional amendments depends on the will of the House as expressed on a motion for the previous question (IV, 4895, V, 5794; VIII, 2419). The fact that a proposition has been rejected by the Committee of the Whole does not prevent it from being offered as an amendment when the subject comes up in the House (IV, 4878-4880; VIII, 2700). A substitute amendment may be offered to a bill reported from committee, and then the previous question may be ordered on the substitute, on all other amendments, and on the bill to final passage (V, 5472). An amendment in the nature of a substitute reported from committee is treated like any other amendment (V, 5341), and if the House rejects the substitute the original bill without amendment is before the House (VIII, 2426).

§ 338. Bills from Committee of the Whole in the House.

Where a series of bills are reported from Committee of the Whole, the House considers them in the order in which they are reported (IV, 4869, 4870; VIII, 2417). A proposition reported for action has precedence over an independent resolution on the same subject offered by a Member from the floor (V, 6986), and where a bill and a resolution relating to an alleged breach of privilege were reported together the question was put first on the bill (V, 6986). A bill read in full and considered in Committee of the Whole (IV, 3409, 3410), or presumed to have been so read (IV, 4916), is not read in full again in the House when reported and acted on. The Chairman of the Committee of the Whole which reports a bill does not become entitled to prior recognition for debate in the House (II, 1453); but on an adverse report an opponent is recognized to make a motion for disposition of the bill (IV, 4897; VIII, 2430), or for debate (VII, 2629). The recommendation of the committee being before the House, the motion to carry out the recommendation is usually considered as pending without being offered from the floor (IV, 4896), but when a bill was reported with a recommendation that it lie on the table, a question was raised as to whether or not this motion, which prevents debate, should be considered as pending (IV, 4897).

§ 339. Discharge of the Committee of the Whole.

A motion to discharge the Committee of the Whole from the consideration of a matter committed to it is not privileged as against a demand for the regular order (IV, 4917). When the committee is discharged from consideration of a bill the House, in lieu of the report of the chairman, accepts the minutes of the Clerk as evidence of amendments agreed to (IV, 4922).

§ 340. Application of House rules in Committee of the Whole.

In other things the rules or proceedings are to be the same as in the House. *Scob., 39.*

The House of Representatives provides by rule (XXIII, clause 9) that the rules of proceeding in the House shall apply in Committee of the Whole so far as they may be applicable.

SEC. XIII.—EXAMINATION OF WITNESSES.

§ 341. Common fame as ground for investigation.

Common fame is a good ground for the House to proceed by inquiry, and even to accusation. *Resolution House of Commons, 1 Car., 1, 1625; Rush, L. Parl., 115; Grey, 16–22, 92; 8 Grey, 21, 23, 27, 45.*

In the House of Representatives common fame has been held sufficient to justify procedure for inquiry (III, 2701), as in a case wherein it was stated on the authority of "common rumor" that a Member had been menaced (III, 2678). The House also has voted to investigate with a view to impeachment on the basis of common fame, as in the cases of Judges Chase (III, 2342), Humphreys (III, 2385), and Durell (III, 2506).

§ 342. The production of witnesses at an inquiry.

Witnesses are not to be produced but where the House has previously instituted an inquiry, *2 Hats., 102,* nor then are orders for their attendance given blank. *3 Grey, 51.*

In the House of Representatives witnesses are summoned in pursuance and by virtue of the authority conferred on a committee by the House to send for persons and papers (III, 1750). Even in cases wherein the rules give to certain committees the authority to investigate without securing special permission, authority must be obtained before the production of testimony may be compelled (IV, 4316). The rules require that subpoenas issued by order of the House be signed by the Speaker (Rule I, clause 4) and attested and sealed by the Clerk (Rule III, clause 3). However, in Rule XI, clause 2(m), the House has authorized any committee or subcommittee to issue a subpoena when authorized by a majority of the members of the committee or subcommittee voting, a majority being present. A committee may also delegate the authority to issue subpoenas to the chairman of a full committee. Authorized subpoenas are signed by the chairman of the committee or by any other member designated by the committee. Sometimes the House authorizes issue of subpoenas during a recess of Congress and empowers the Speaker to sign them (III, 1806), and in one case the two Houses, by concurrent resolution, empowered the Vice President and Speaker to sign during a recess (III, 1763). (See Barry *v.* U.S. ex. rel. Cunningham, 279 U.S. 597; McGrain *v.* Daugherty, 273 U.S. 135; Sinclair *v.* United States, 279 U.S. 263).

§ 343. Examination of witnesses in the House and in committee.

When any person is examined before a committee or at the bar of the House, any Member wishing to ask the person a question must address it to the Speaker or chairman, who repeats the question to the person, or says to him, "You hear the question—answer it." But if the propriety of the question be objected to, the Speaker directs the witness, counsel, and parties to withdraw; for no question can be moved or put or debated while they are there. *2 Hats., 108.* Sometimes the questions are previously settled in writing before the witness enters. *Ib., 106, 107; 8 Grey, 64.* The questions asked must be entered in the journals. *3 Grey, 81.* But the testimony given in answer before the House is never written down; but before a committee, it must be, for the information of the House, who are not present to hear it. *7 Grey, 52, 334.*

The Committee of the Whole of the House of Representatives was charged with an investigation in 1792, but the procedure was wholly exceptional (III, 1804), although a statute still empowers the Chairman of the Committee of the Whole, as well as the Speaker, chairmen of select or standing committees, and Members to administer oaths to witnesses (2 U.S.C. 191; III, 1769). Most inquiries, in the modern practice, are conducted by select or standing committees, and these in each case determine how they will conduct examinations (III, 1773, 1775). Clause 2(k), Rule XI, contains provisions governing certain procedures at investigative hearings by committees (§ 712). In one case a committee permitted a Member of the House not of the committee to examine a witness (III, 2403). Usually these investigations are reported stenographically, thus making the questions and answers of record for report to the House. To sustain a conviction of perjury a quorum of a committee must be in attendance when the testimony is given (Christoffel *v.* U.S., 338 U.S. 84). Certain criminal statutes make it a felony to give perjurious testimony before a Congressional committee (18 U.S.C. 1621) or to intimidate witnesses before committees (18 U.S.C. 1505). 18 U.S.C. 6005 provides "use" immunity for certain witnesses before either House or committees thereof as follows:

§ 6005. Congressional proceedings

(a) In the case of any individual who has been or may be called to testify or provide other information at any proceeding before either House of Congress, or any committee, or any subcommittee of either House, or any joint committee of the two Houses, a United States district court shall issue, in accordance with subsection (b) of this section, upon the request of a duly authorized representative of the House of Congress or the committee concerned, an order requiring such individual to give testimony or provide other information which he refuses to give or provide on the basis of his privilege against self-incrimination, such order to become effective as provided in section 6002 of this part.

(b) Before issuing an order under subsection (a) of this section, a United States district court shall find that—

(1) in the case of a proceeding before either House of Congress, the request for such an order has been approved by an affirmative vote of a majority of the Members present of that House;

(2) in the case of a proceeding before a committee or a subcommittee of either House of Congress or a joint committee of both Houses, the request for such an order has been approved by an affirmative vote of two-thirds of the members of the full committee; and

(3) ten days or more prior to the day on which the request for such an order was made, the Attorney General was served with notice of an intention to request the order.

(c) Upon application of the Attorney General, the United States district court shall defer the issuance of any order under subsection (a) of this section for such period, not longer than twenty days from the date of the request for such order, as the Attorney General may specify.

§ 344. Earlier and later practice as to inquiries at the bar of the House.

The House, in its earlier years, arraigned and tried at its bar persons, not Members, charged with violation of its privileges, as in the cases of Randall, Whitney (II, 1599-1603), Anderson (II, 1606), and Houston (II, 1616); but in the case of Woods, charged with breach of privilege in 1870 (II, 1626-1628), the respondent was arraigned before the House, but was heard in his defense by counsel and witnesses before a standing committee. At the conclusion of that investigation the respondent was brought to the bar of the House while the House voted his punishment (II, 1628). The House has also arraigned at its bar contumacious witnesses before taking steps to punish by its own action or through the courts (III, 1685). In examinations at its bar the House has adopted forms of procedure as to questions (II, 1633, 1768), providing that they be asked through the Speaker (II, 1602, 1606) or by a committee (II, 1617; III, 1668). And the questions to be asked have been drawn up by a committee, even when put by the Speaker (II, 1633). In the earlier practice the answer of a witness at the bar was not written down (IV, 2874); but in the later practice the answers appear in the journal (III, 1668). The person at the bar withdraws while the House passes on an incidental question (II, 1633; III, 1768). (See McGrain *v.* Dougherty, 273 U.S. 135; Barry *v.* U.S. ex. rel. Cunningham, 279 U.S. 597; Jurney *v.* MacCracken, 294 U.S. 125).

§ 345. Procuring attendance of a witness in custody of the other House.

If either House have occasion for the presence of a person in custody of the other, they ask the other their leave that he may be brought up to them in custody. *3 Hats., 52.*

§ 346. Members as witnesses.

A Member, in his place, gives information to the House of what he knows of any matter under hearing at the bar. *Jour. H. of C., Jan. 22, 1744-5.*

At an examination at the bar of the House in 1795 both the written information given by Members and their verbal testimony were required to be under oath (II, 1602). In a case not of actual examination at the bar, but wherein the House was deliberating on a proposition to order investigation, it demanded by resolution that certain Members produce papers and information (III, 1726, 1811). Members often give testimony before committees of investigation, and in at least one case the Speaker has thus appeared (III, 1776). But in a case wherein a committee summoned a Member to testify as to a statement made by him in debate he protested that it was an invasion of his constitutional privilege (III, 1777, 1778; also see House Report 1372, 67th Cong., 4th sess., and Congressional Record, Jan. 25, 1923, pp. 2415–2423). In one instance the chairman of an investigating committee administered the oath to himself and testified (III, 1821). The House, in an inquiry preliminary to an impeachment trial, gave leave to its managers to examine Members, and leave to its Members to attend for the purpose (III, 2033).

§ 347. Method of obtaining testimony of a Member of the other House.

Either House may request, but not command, the attendance of a Member of the other. They are to make the request by message of the other House, and to express clearly the purpose of attendance, that no improper subject of examination may be tendered to him. The House then gives leave to the Member to attend, if he choose it; waiting first to know from the Member himself whether he chooses to attend, till which they do not take the message into consideration. But when the peers are sitting as a court of criminal judicature, they may order attendance, unless where it be a case of impeachment by the Commons. There it is to be a request. *3 Hats., 17; 9 Grey, 306, 406; 10 Grey, 133.*

The House of Representatives and the Senate have observed this rule; but it does not appear that they have always made public ascertainment of the willingness of the Member to attend (III, 1790, 1791). In one case the Senate laid aside pending business in order to comply with the request of the House (III, 1791). In several instances House committees, after their invitations to Senators to appear and testify had been disregarded, have issued subpoenas. In such cases the Senators have either disregarded the subpoenas, refused to obey them, or have appeared under protest (III, 1792, 1793). In one case, after a Senator had neglected to respond either to an invitation or a subpoena the House requested of the Senate his attendance and the Senate disregarded the request (III, 1794). Where Senators have responded to invitations of House committees, their testimony has been taken without obtaining consent of the Senate (III, 1793, 1795, footnote).

§ 348. Admission of counsel.

Counsel are to be heard only on private, not on public, bills and on such points of law only as the House shall direct. *10 Grey, 61.*

In 1804 the House admitted the counsel of certain corporations to address the House on pending matters of legislation (V, 7298), and in 1806 voted that a claimant might be heard at the bar (V, 7299); but in 1808, after consideration, the House by a large majority declined to follow again the precedent of 1804 (V, 7300). In early years counsel in election cases were heard at the bar at the discretion of the House (I, 657, 709, 757, 765); but in 1836, after full discussion, the practice was abandoned (I, 660), and, with one exception in 1841 (I, 659), has not been revived, even for the case of a contestant who could not speak the English language (I, 661). Counsel appear before committees in election cases, however. Where witnesses and others have been arraigned at the bar of the House for contempt, the House has usually permitted counsel (II, 1601, 1616; III, 1667), sometimes under conditions (II, 1604, 1616); but in a few cases has declined the request (II, 1608; III, 1666, footnote). In investigations before committees counsel usually have been admitted (III, 1741, 1846, 1847), sometimes even to assist a witness (III, 1772), and clause 2(k)(3), Rule XI, of the House now provides that witnesses at investigative hearings may be accompanied by their own counsel for the purpose of advising them concerning their constitutional rights (§ 712). In examinations preliminary to impeachment counsel usually have been admitted (III, 1736, 2470, 2516) unless in cases wherein such proceedings were ex parte. During its investigation into charges of impeachment against President Nixon, the Committee on the Judiciary admitted counsel to the President to be present, to make presentations and to examine witnesses during investigatory hearings (H. Rept 93-1305. Aug. 20, 1974, p. 29219).

At one time the House required all counsel or agents representing persons or corporations before committees to be registered with the Clerk (III, 1771). The Federal Regulation of Lobbying Act (Title III of the Legislative Reorganization Act of 1946) requires all lobbyists to register with the Clerk of the House and the Secretary of the Senate (2 U.S.C. 267).

SEC. XIV.—ARRANGEMENT OF BUSINESS.

§ 349. Advantages of an order of business.

The Speaker is not precisely bound to any rules as to what bills or other matter shall be first taken up; but it is left to his own discretion, unless the House on a question decide to take up a particular subject. *Hakew., 136.*

A settled order of business is, however, necessary for the government of the presiding person, and to restrain individual Members from calling up favorite measures, or matters under their special patronage, out of their just turn. It is useful also for directing the discretion of the House, when they are moved to take up a particular matter, to the prejudice of others, having priority of right to their attention in the general order of business.

* * * * *

In this way we do not waste our time in debating what shall be taken up. We do one thing at a time; follow up a subject while it is fresh, and till it is done with; clear the House of business gradatim as it is brought on, and prevent, to a certain degree, its immense accumulation toward the close of the session.

Jefferson gave as a part of his comment on the law of Parliament the order of business in the Senate in his time. Both in the House and Senate the order of business has been changed to meet the needs of the times. The order of business now followed in the House is established by Rule XXIV; and this rule, with the rules supplemental thereto, take away to a very large extent the discretion exercised by the Speaker under the parliamentary law.

In the House of Representatives before committees are appointed it is in order to offer a bill or resolution for consideration not previously considered by a committee (VII, 2103). In the 73d Congress, the House passed before the adoption of rules and election of committees a bill of major importance (H.R. 1491, providing relief in the existing national emergency in banking), following a message from President Roosevelt recommending its immediate passage (Mar. 9, 1933, pp. 75–84). After committees are appointed, bills and resolutions not otherwise in order must be referred (VII, 2104).

§ 350. Conditions of the old and the modern orders of business.

Arrangement, however, can only take hold of matters in possession of the House. New matter may be moved at any time when no question is before the House. Such are original motions and reports on bills. Such are bills from the other House, which are received at all times, and receive their first reading as soon as the question then before the House is disposed of; and bills brought in on leave, which are read first whenever presented. So messages from the other House respecting amendments to bills are taken up as soon as the House is clear of a question, unless they require to be printed, for better consideration. Orders of the day may be called for, even when another question is before the House.

In Jefferson's time the principles of this comment would have applied to both House and Senate; but in the House the pressure of business has become so great that the order of business may be interrupted at the will of the majority only by certain specified matters (see annotations following Rule XXIV). For matters not thus specified, interruption of the order takes place only by unanimous consent.

SEC. XV.—ORDER.

*   *   *   *   *

§ 351. Precedent in Parliament and the House.

In Parliament, "instances make order," per Speaker Onslow. *2 Hats., 141.* But what is done only by one Parliament, cannot be called custom of Parliament, by Prynne. *1 Grey, 52.*

In the House of Representatives the Clerk is required to note all questions of order and the decisions thereon and print the record thereof as an appendix to the Journal (Rule III, clause 3); and the Parliamentarian has the responsibility for compiling and updating the precedents (Legislative Reorganization Act of 1970, 84 Stat. 1140, Secs. 341–342), while the Speaker is directed to prepare an updated compilation of such precedents every two years. (H. Res. 988, 93d Cong., Sec. 208; 88 Stat. 1777). The Speaker feels constrained in his rulings to give precedent its proper influence (II, 1317), since the advantage of such a course are undeniable (IV, 4045). But decisions of the Speakers on questions of order are not like judgments of courts which conclude the rights of parties, but may be reexamined and reversed (IV, 4637), except on discretionary matters of recognition (II, 1425). It is rare, however, that such a reversal occurs.

SEC. XVI.—ORDER RESPECTING PAPERS.

§ 352. Safe keeping of papers and integrity of bills.

The Clerk is to let no journals, records, accounts, or papers be taken from the table or out of his custody. *2 Hats., 193, 194.*

Mr. Prynne, having at a Committee of the Whole amended a mistake in a bill without order or knowledge of the committee, was reprimanded. *1 Chand., 77.*

A bill being missing, the House resolved that a protestation should be made and subscribed by the members "before Almighty God, and this honorable House, that neither myself, nor any other to my knowledge, have taken away, or do at this present conceal a bill entitled," &c. *5 Grey, 202.*

After a bill is engrossed, it is put into the Speaker's hands, and he is not to let any one have it to look into. *Town, col. 209.*

In the House of Representatives an alleged improper alteration of a bill was presented as a question of privilege and examined by a select committee. It being ascertained that the alteration was made to correct a clerical error, the committee reported that it was "highly censurable in any Member or officer of the House to make any change, even the most unimportant, in any bill or resolution which has received the sanction of this body" (III, 2598). Engrossed bills do not go into the Speaker's hands. Enrolled bills go to him for signature.

SEC. XVII.—ORDER IN DEBATE.

§ 353. Decorum of Members as to sitting in their places.

When the Speaker is seated in his chair, every member is to sit in his place. *Scob., 6; Grey, 403.*

In the House of Representatives the decorum of Members is regulated by the various sections of Rule XIV; and this provision of the parliamentary law is practically obsolete.

§ 354. Procedure of the Member in seeking recognition.

When any Member means to speak, he is to stand up in his place, uncovered, and to address himself, not to the House, or any particular Member, but to the Speaker, who calls him by his name, that the House may take notice who it is that speaks. *Scob., 6; D'Ewes, 487, col. 1; 2 Hats., 77; 4 Grey, 66; 8 Grey, 108.* But Members who are indisposed may be indulged to speak sitting. *2 Hats., 75, 77; 1 Grey, 143.*

In the House of Representatives the Member, in seeking recognition is governed by Rule XIV, clause 1, which differs materially from this provision of the parliamentary law. The Speaker, moreover, calls the Member, not by name, but as "the gentleman (or gentlewoman) from ————," naming the State. As long ago as 1832, at least, a Member was not required to rise from his own seat (V, 4979, footnote).

§ 355. Conditions under which a Member's right to the floor is subjected to the will of the House.

When a Member stands up to speak, no question is to be put, but he is to be heard unless the House overrule him. *4 Grey, 390; 5 Grey, 6, 143.*

In the House of Representatives no question is put as to the right of a Member to the floor, unless he be called to order and dealt with by the House under Rule XIV, cls. 4, 5.

§ 356. The parliamentary law as to recognition by the Speaker.

If two or more rise to speak nearly together, the Speaker determines who was first up, and calls him by name, whereupon he proceeds, unless he voluntarily sits down and gives way to the other. But sometimes the House does not acquiesce in the Speaker's decision, in which case the question is put, "which Member was first up?" *2 Hats., 76; Scob., 7; D'Ewes, 434, col. 1, 2.*

In the Senate of the United States the President's decision is without appeal.

In the House of Representatives recognition by the Chair is governed by Rule XIV, clause 2, and the practice thereunder. There has been no appeal from a decision by the Speaker on a question of recognition since 1881, on which occasion Speaker Randall stated that the power of recognition is "just as absolute in the Chair as the judgment of the Supreme Court of the United States is absolute as to the interpretation of the law" (II, 1425–1428), and in the later practice no appeal is permitted (VIII, 2429, 2646, 2762).

§ 357. Right of the Member to be heard a second time.

No man may speak more than once on the same bill on the same day; or even on another day, if the debate be adjourned. But if it be read more than once in the same day, he may speak once at every reading. *Co., 12, 115; Hakew., 148; Scob., 58; 2 Hats., 75.* Even a change of opinion does not give a right to be heard a second time. *Smyth's Comw. L., 2, c. 3; Arcan, Parl., 17.*

But he may be permitted to speak again to clear a matter of fact, *3 Grey, 357, 416;* or merely to explain himself, *2 Hats., 73,* in some material part of his speech, *Ib., 75;* or to the manner or words of the question, keeping himself to that only, and not traveling into the merits of it, *Me-*

morials in Hakew., 29; or to the orders of the House, if they be transgressed, keeping within that line, and not falling into the matter itself. *Mem. Hakew., 30, 31.*

The House of Representatives has modified the parliamentary law as to a Member's right to speak a second time by Rule XIV, clause 3, 6. But in practice the rule is not, ordinarily, enforced rigidly and Members find little difficulty in making explanations such as are contemplated by the parliamentary law.

§ 358. Participation of the Speaker in debate.

But if the Speaker rise to speak, the Member standing up ought to sit down, that he may be first heard. *Town., col. 205; Hale Parl., 133; Mem. in Hakew., 30, 31.* Nevertheless, though the Speaker may of right speak to matters of order, and be first heard, he is restrained from speaking on any other subject, except where the House have occasion for facts within his knowledge; then he may, with their leave, state the matter of fact. *3 Grey, 38.*

This provision is usually observed in the practice of the House, so far as the conduct of the Speaker in the chair is concerned. In several instances the Speaker has been permitted by the House to make a statement from the chair, as in a case wherein his past conduct had been criticised (II, 1369), and in a case wherein there had been unusual occurrences in the joint meeting to count the electoral vote (II, 1372), and in a matter relating to a contest for the seat of the Speaker as a Member (II, 1360). In rare instances the Speaker has made brief explanations from the chair without asking the assent of the House (II, 1373, 1374). Speakers have called others to the chair and participated in debate, usually without asking consent of the House (II, 1360, 1367, footnote, 1368, 1371; III, 1950), and in one case a Speaker on the floor debated a point of order which the Speaker pro tempore was to decide (V, 6097). In rare instances Speakers have left the chair to make motions on the floor (II, 1367, footnote). Speakers may participate in debate in Committee of the Whole, although at certain periods in the history of the House the privilege was rarely exercised (II, 1367, footnote).

§ 359. Impertinent, superfluous, or tedious speaking.

No one is to speak impertinently or beside the question, superfluous, or tediously. *Scob., 31, 33; 2 Hats., 166, 168; Hale Parl., 133.*

The House, by Rule XIV, clause 1, provides that the Member shall address himself to the question under debate, but neither by rule nor practice has the House ever suppressed superfluous or tedious speaking, its hour rule (XIV, clause 2) being a sufficient safeguard in this respect.

§ 360. Language reflecting on the House.

No person is to use indecent language against the proceedings of the House; no prior determination of which is to be reflected on by any Member, unless he means to conclude with a motion to rescind it. *2 Hats., 169, 170; Rushw., p. 3, v. 1, fol. 42.* But while a proposition under consideration is still *in fieri,* though it has even been reported by a committee, reflections on it are no reflections on the House. *9 Grey, 508.*

In the practice of the House of Representatives it has been held out of order in debate to cast reflections on either the House or its membership or its decisions, whether present or past (V, 5132–5138). A Member who had used offensive words against the character of the House, and who declined to explain, was censured (II, 1247). Words impeaching the loyalty of a portion of the membership have also been ruled out (V, 5139). Where a Member reiterated on the floor certain published charges against the House, action was taken, although other business had intervened, the question being considered one of privilege (III, 2637). It has been held inappropriate and not in order in debate to refer to the proceedings of a committee except such as have been formally reported to the House (V, 5080–5083; VIII, 2269, 2485–2493; June 24, 1958, pp. 12120, 12122), but this rule does not apply to the proceedings of a committee of a previous Congress (Chairman Hay, Feb. 2, 1914, p. 2782), and the rationale for this limitation on debate is in part obsolete under the modern practice of the House insofar as the doctrine is applied to open committee meetings and hearings.

§ 361. Personalities in debate forbidden.

No person, in speaking, is to mention a Member then present by his name, but to describe him by his seat in the

House, or who spoke last, or on the other side of the question, &c., *Mem. in Hakew., 3; Smyth's Comw., L. 2, c. 3;* nor to digress from the matter to fall upon the person, *Scob., 31; Hale Parl., 133; 2 Hats., 166,* by speaking reviling, nipping, or unmannerly words against a particular Member. *Smyth's Comw., L. 2, c. 3.* * * *

In the practice of the House a Member is not permitted to refer to another by name (V, 5144; VIII, 2526, 2529, 2536), or to address him in the second person (V, 5140–5143; VI, 600; VIII, 2529). The proper reference to a colleague is "the gentleman (or gentlewoman) from ———," naming the State. (June 14, 1978, p. 17615; July 21, 1982, pp. 17314, 17315). By rule of the House (Rule XIV, clause 1), as well as by the parliamentary law, personalities are forbidden (V, 4979, 5145, 5163, 5169), whether against the Member in his capacity as Representative or otherwise (V, 5152, 5153). But a distinction has been drawn between charges made by one Member against another in a newspaper and the same made in debate on the floor (III, 2691). A member may not read in debate extraneous material, critical of Members, which would be improper if spoken in the Member's own words; thus words in a telegram read in debate which repudiated the "lies and half-truths" of a House committee report were taken down and ruled out of order as reflecting on the integrity of committee members (June 16, 1947, p. 7065). Questions have arisen sometimes involving a distinction between general language and personalities (V, 5153, 5163, 5169). A denunciation of the spirit in which a Member had spoken was held out of order as a personality (V, 6981). The House has censured a Member for gross personalities (II, 1251). References in debate to an identifiable group of sitting Members as having committed a crime (e.g. "stealing" an election) are proscribed by clause 1, Rule XIV (Feb. 27, 1985, p. 3898; Speaker Wright, Mar. 21, 1989, p. ——). That rule prohibits references in debate to newspaper accounts used in support of a Member's personal criticism of a sitting Member in a way which would be unparliamentary if uttered as the Member's own words (Feb. 25, 1985, p. 3346). It is not in order in debate to refer in a personally critical manner to the political tactics of the Speaker or other Members (June 25, 1981, p. 14056), by charging dishonesty or disregard of the rules (July 11, 1985, p. 18550), or to refer to a particular Member of the House in a derogatory fashion, and the Chair will intervene to prevent improper references where it is evident that a particular Member is being described (Oct. 28, 1981, p. 25681). The Speaker has reminded and advised Members that they should refrain from references in debate to the official conduct of other Members where such conduct is not the subject then pending before the House by way of either a report of the Committee on Standards of Official Conduct or another question of the privileges of the House, and that they should refrain from references in debate to the motivations of Members who file complaints before the Committee on Standards of Official Conduct (Speaker pro tempore Foley, June 15, 1988, p. ——; July 6, 1988, p. ——; Mar. 22, 1989, p. ——; May 2, 1989, p. ——). Although debate on a privileged resolution recommending disciplinary action against a Member may include comparisons with other such actions taken by or reported to the House for purposes of measuring severity of punishment, it is not in order to discuss the conduct of another Member not the subject of a committee report (Dec. 18, 1987, p. ——).

§ 362. Criticism of the Speaker.

Complaint of the conduct of the Speaker should be presented directly for the action of the House and not by way of debate on other matters (V, 5188). In a case wherein a Member used words insulting to the Speaker the House on a subsequent day, and after other business had intervened, censured the offender (II, 1248). In such a case the Speaker would ordinarily leave the chair while action should be taken by the House (II, 1366; V, 5188; VI, 565).

§ 363. Motives of Members not to be arraigned.

* * * The consequences of a measure may be reprobated in strong terms; but to arraign the motives of those who propose to advocate it is a personality, and against order. *Qui digreditur a materia ad personam,* Mr. Speaker ought to suppress. *Ord. Com., 1604, Apr. 19.*

The arraignment of the motives of Members is not permitted (V, 5147-5151; Dec. 13, 1973, p. 41270), and the Speakers have intervened to prevent it, in the earlier practice preventing even mildest imputations (V, 5161, 5162). Accusing another Member of hypocrisy was held not in order (July 24, 1979, p. 20380), and characterizing the motivation of a Member in offering an amendment as deceptive and hypocritical was ruled out of order (June 12, 1979, p. 11461). A statement in debate that an amendment could only be demagogic or racist because only demagoguery or racism impelled such an amendment was ruled out of order as impugning the motives of the Member offering the amendment (Dec. 3, 1973, p. 41270, 41271). While in debate the assertion of one Member may be declared untrue by another, yet in so doing an intentional misrepresentation must not be implied (V, 5157-5160), and if stated or implied is censurable (II, 1305) and presents a question of privilege (III, 2717; VI, 607). A Member in debate having declared the words of another "a base lie," censure was inflicted by the House on the offender (II, 1249).

§ 364. Disorder and interruptions during debate.

No one is to disturb another in his speech by hissing, coughing, spitting, *6 Grey, 322; Scob., 8; D'Ewes, 332, col. 1, 640, col. 2,* speaking or whispering to another, *Scob., 6; D'Ewes, 487, col. 1;* not stand up to interrupt him, *Town, col. 205; Mem. in Hakew., 31;* nor to pass between the Speaker and the speaking Member, nor to go across the House, *Scob., 6,* or to walk up and down it, or to take books or papers from the table, or write there, *2 Hats., 171, p. 170.*

The House of Representatives has by Rule XIV, clause 7, prescribed certain rules of decorum differing somewhat from this provision of the parliamentary law, but supplemental to it rather than antagonistic. In one respect, however, the practice of the House differs from the apparent intent of the parliamentary law. In the House a Member may interrupt by addressing the Chair for permission of the Member speaking (V, 5006; VIII, 2465); but it is entirely within the discretion of the Member occupying the floor to determine when and by whom he shall be interrupted (V, 5007, 5008; VIII, 2463, 2465). There is no rule of the House requiring a Member having the floor to yield to another Member to whom he has referred during debate (Aug. 2, 1984, p. ——). The Chair may take the initiative in preserving order when a Member declining to yield in debate continues to be interrupted by another Member, may order that the interrupted Member's remarks not appear in the Record (July 26, 1984, p. ——), and may admonish Members not to converse with a Member attempting to address the House (Feb. 21, 1984, p. ——). On the opening day of the 101st Congress, during the customary announcement of policies with respect to particular aspects of the legislative process, the Chair elaborated on the rules of order in debate with a general statement concerning decorum in the House of Representatives (Jan. 3, 1989, p. ——).

§ 365. Parliamentary method of silencing a tedious Member.

Nevertheless, if a Member finds that it is not the inclination of the House to hear him, and that by conversation or any other noise they endeavor to drown his voice, it is his most prudent way to submit to the pleasure of the House, and sit down; for it scarcely ever happens that they are guilty of this piece of ill manners without sufficient reason, or inattention to a Member who says anything worth their hearing. *2 Hats., 77, 78.*

In the House of Representatives, where the previous question and hour rule of debate have been used for many years, the parliamentary method of suppressing a tedious Member has never been imported into the practice (V, 5445).

§ 366. The parliamentary law as to naming a disorderly Member.

If repeated calls do not produce order, the Speaker may call by his name any Member obstinately persisting in irregularity; whereupon the House may require the Member to withdraw. He is then to be heard in exculpation, and to withdraw. Then the Speaker states the offense committed; and the House considers the degree of punishment they will inflict. *2 Hats., 167, 7, 8, 172.*

The House of Representatives, in Rule XIV, clause 4, 5, has made a provision which supersedes this provision of the parliamentary law.

§ 367. Proceedings in cases of assaults and affrays.

For instances of assaults and affrays in the House of Commons, and the proceedings thereon, see *1 Pet. Misc., 82; 3 Grey, 128; 4 Grey, 328; 5 Grey, 382; 6 Grey, 254; 10 Grey, 8.* Whenever warm words or an assault have passed between Members, the House, for the protection of their Members, requires them to declare in their places not to prosecute any quarrel, *3 Grey, 128, 293; 5 Grey, 280;* or orders them to attend the Speaker, who is to accommodate their differences, and report to the House, *3 Grey, 419;* and they are put under restraint if they refuse, or until they do. *9 Grey, 234, 312.*

In several instances assaults and affrays have occurred on the floor of the House of Representatives. Sometimes the House has allowed these affairs to pass without notice, the Members concerned making apologies either personally or through other Members (II, 1658–1662). In other cases the House has exacted apologies (II, 1646–1651, 1657), or required the offending Members to pledge themselves before the House to keep the peace (II, 1643). In case of an aggravated assault by one Member on another on the portico of the Capitol for words spoken in debate, the House censured the assailant and three other Members who had been present, armed, to prevent interference (II, 1655, 1656). Assaults or affrays in the Committee of the Whole are dealt with by the House (II, 1648–1651).

§ 368. Parliamentary law as to taking down disorderly words.

Disorderly words are not to be noticed till the Member has finished his speech. *5 Grey, 356; 6 Grey, 60.* Then the person objecting to them, and desiring them to be taken down by the Clerk at the table, must repeat them. The Speaker then may direct the Clerk to take them down in his minutes; but if he thinks them not disorderly, he delays the direction. If the call becomes pretty general, he orders the Clerk to take them down, as stated by the objecting Member. They are then a part of his minutes, and when read to the offending Member, he may deny they were his words, and the House must then decide by a question whether they are his words or not. Then the Member may justify them, or explain the sense in which he used them, or apologize. If the House is satisfied, no further proceeding is necessary. But if two Members still insist to take the sense of the House, the Member must withdraw before that question is stated, and then the sense of the House is to be taken. *2 Hats., 199; 4*

Grey, 170; 6 Grey, 59. When any Member has spoken, or other business intervened, after offensive words spoken, they can not be taken notice of for censure. And this is for the common security of all, and to prevent mistakes which must happen if words are not taken down immediately. Formerly they might be taken down at any time the same day. *2 Hats., 196; Mem. in Hakew., 71; 3 Grey, 48; 9 Grey, 514.*

The House of Representatives has, by Rule XIV, clause 4, 5, provided a method of procedure in cases of disorderly words. The House permits and requires them to be noticed as soon as uttered, and has not insisted that the offending Member withdraw while the House is deciding as to its course of action.

§ 369. Disorderly words taken down and reported from Committee of the Whole.

Disorderly words spoken in a committee must be written down as in the House; but the committee can only report them to the House for animadversion. *6 Grey, 46.*

This provision of the parliamentary law has been applied to the Committee of the Whole rather than to select or standing committees. The House has censured a Member for disorderly words spoken in Committee of the Whole and reported therefrom (II, 1259).

§ 370. References in debate to the Executive.

In Parliament, to speak irreverently or seditiously against the King is against order. *Smyth's Comw., L. 2, c. 3; 2 Hats., 170.*

This provision of the parliamentary law is manifestly inapplicable to the House of Representatives (V, 5086); and it has been held in order in debate to refer to the President of the United States or his opinions, either with approval or criticism, provided that such reference be relevant to the subject under discussion and otherwise conformable to the rules of the House (V, 5087-5091; VIII, 2500). Also a reference to the probable action of the President was held in order (V, 5092). In debating a proposition to impeach the President a wide latitude was permitted to a Member in preferring charges (V, 5093), but he was required to abstain from language personally offensive (V, 5094) such as calling the President a "liar" (VIII, 2498; June 26, 1985, p. 17394), and personal abuse, innuendo or ridicule of the President is not permitted (VIII, 2497; Aug. 12, 1986, p. ——; Oct. 21, 1987, p. ——). On January 27, 1909 (VIII, 2497), the House adopted a report of a committee appointed to investigate the question, which report in part stated:

"The freedom of speech in debate in the House of Representatives should never be denied or abridged, but freedom of speech in debate does not mean license to indulge in personal abuses or ridicule. The right of Members of the two Houses of Congress to criticize the official acts of the President and other executive officers is beyond question, but this right is subject to proper rules requiring decorum in debate. The right to legislate involves the right to consider conditions as they are and to contrast present conditions with those of the past or those desired in the future. The right to correct abuses by legislation carries the right to consider and discuss abuses which exist or which are feared.

"It is, however, the duty of the House to require its Members in speech or debate to preserve that proper restraint which will permit the House to conduct its business in an orderly manner and without unnecessarily and unduly exciting animosity among its Members or antagonism from those other branches of the Government with which the House is correlated."

§ 371. Debate and proceedings in the other House not to be noticed in debate.

It is a breach of order in debate to notice what has been said on the same subject in the other House, or the particular votes or majorities on it there; because the opinion of each House should be left to its own independency, not to be influenced by the proceedings of the other; and the quoting them might beget reflections leading to a misunderstanding between the two Houses. *8 Grey, 22.*

Until clause 1, Rule XIV, was amended by adoption of the rules in the 100th Congress (H. Res. 5, Jan. 6, 1987, p. ——) and again in the 101st Congress (H. Res. 5, Jan. 3, 1989, p. ——), this principle of comity and the parliamentary law as described by Jefferson governed debate in the House of Representatives to the full extent of its provisions (see generally, V, 5095–5130; VIII, 2501–21; July 31, 1984, p. ——; Procedure ch. 29, Sec. 14). Clause 1, Rule XIV, now provides that "debate may include references to actions taken by the Senate or by committees thereof which are a matter of public record, references to the pendency or sponsorship in the Senate of bills, resolutions, and amendments, factual descriptions relating to Senate action or inaction concerning a measure then under debate in the House, and quotations from Senate proceedings on a measure then under debate in the House and which are relevant to the making of legislative history establishing the meaning of that measure, but may not include characterizations of Senate action or inaction, other references to individual Members of the Senate, or other quotations from Senate proceedings." A Member may not read or quote from the record of speeches or proceedings in the Senate, or insert such material in the Record (V, 5107-5111; VIII, 2501-2506; June 25, 1986, p. ——; Procedure ch. 29, § 14.3) except to make legislative history on a measure then under debate, and the prohibition extends to quoting accounts of Senate debates printed elsewhere, such as in reprints or in the press (VIII, 2053). It has even been held out of order to criticize words spoken in the Senate by one not a Member of that body in the course of an impeachment trial (V, 5106). It is not in order in debate to mention the name of a Senator (except as the sponsor of a measure or in quotations from Senate proceedings for the purpose of making legislative history) or to refer to a Senator or his vote on a proposition (Procedure ch. 29, § 14.2; Sept. 29, 1983, p. ——).

Except as permitted in clause 1, Rule XIV, it is equally out of order to characterize the position of the Senate, or of Senators designated by name or position, on legislative issues (Oct. 5, 1984, p. ——; Oct. 11, 1984, p. ——), or to speculate as to the intent of Senators or of the Senate on legislation (Oct. 11, 1984, p. ——), or to characterize Senate inaction (Apr. 29, 1986, p. ——; July 31, 1986, p. ——; Aug. 4, 1987, p. ——). Nor is it in order in debate to specifically urge that the Senate take certain action; thus a Member may not refer to confirmation proceedings in the Senate by advocating that it take a certain action with respect to a Presidential nominee (Feb. 7, 1984, p. ——), or suggest that the President urge Senate conferees to meet with House conferees on specific legislation (Aug. 2, 1984, p. ——).

On one occasion before the rule was changed in the 101st Congress to permit certain quotations from Senate proceedings for the purpose of making legislative history, the Speaker entertained a unanimous-consent request that a Member be permitted to refer in debate to Senate proceedings (to quote a statement by the Senate Majority Leader as to probable Senate action on the measure then pending in the House), but the Speaker first ascertained in what manner the reference would be made, in order to assure that remarks critical of the Senate, its Members or proceedings would not be made (Speaker O'Neill, June 4, 1980, p. 13212). But the Chair will not entertain such a request where the references would necessarily imply criticism of the Senate, such as to respond to remarks in the Senate which were critical of Members of the House (VIII, 2519).

In one case, the personal views of a Senator, not uttered in the Senate, were allowed to be quoted in the House (V, 5112), but the weight of recent precedent and the purposes of the rule prohibit references to speeches or statements of Senators occurring outside the Senate Chamber (VIII, 2515; June 26, 1935, pp. 10189-90; May 2, 1941, pp. 3566-67;

Procedure ch. 29, sec. 14.3; May 21, 1984, p. ——). With respect to references to members of the Senate acting in another capacity, references to former Members of the House who are presently Senators are only permissible if they merely address prior House service and are not implicitly critical of Senate service (May 8, 1984, p. ——). A Member of the House has been permitted to refer to a speech made in the Senate by one no longer a Member of that body (V, 5112), although references to Senate proceedings on legislation in the current Congress other than those expressly permitted to establish legislative history should be avoided. References to Members of the Senate in their capacity as candidates for the Presidency or other office are not prohibited, and where a Senator is a candidate for President or Vice President his official policies, actions, and opinions as a candidate may be criticized in terms not personally offensive (Speaker Wright, Sept. 29, 1988, p. ——), but references attacking the character or integrity of a Senator even in that context are not in order (Oct. 30, 1979, p. 30150).

Even prior to the 100th Congress, as indicated in Procedure (ch. 29, sec. 14.1), it was permissible to refer to proceedings in the other House, provided the reference does not contravene the principles stated by Jefferson. A Member must be permitted to refer to the existence of the Senate and its functions in a general and neutral way. For example, a Member may oppose a sine die adjournment resolution on the grounds that Congress should stay in session to complete action on specified legislation then pending in the Senate (V, 5115). It is appropriate to state whether or not the Senate has acted on House-passed legislation as long as criticism is neither stated nor implied (Oct. 4, 1984, p. ——). If references to the Senate are appropriate, the Member delivering them is not required to use the term "the other body", and the use of the term "Senate" is not a per se violation of the rule of comity (Oct. 4, 1984, p. ——). It is in order in debate, while discussing a question involving conference committee procedure, to state what actually occurred in a conference committee session, without referring to or criticizing a named member of the Senate (July 29, 1935, p. 12011).

§ 372. The other House and its Members not to be criticized in debate.

While the Senate may be referred to properly in debate, it is not in order to criticize its acts (V, 5114–5120; Dec. 10, 1980, p. 33205); refer to a Senator in terms of personal criticism (V, 5121, 5122; VIII, 2518, 2521); even anonymously (VIII, 2512); for purpose of complimenting (VIII, 2509), or read a paper making such criticism (V, 5127); and the inhibition extends to references to the remarks or actions of a Senator outside the Senate (VIII, 2515; Speaker Albert, Oct. 7, 1975, p. 32055). The prohibition extends to references to another person's criticism of a Member of the Senate (Aug. 4, 1983, p. ——). After examination by a committee a speech reflecting on the character of the Senate was ordered to be stricken from the Record, on the ground that it tended to create "unfriendly conditions between the two bodies * * * obstructive of wise legislation and little short of a public calamity" (V, 5129). But where a Member has been assailed in the Senate, he has been permitted to explain his own conduct and motives, without bringing the whole controversy into discussion or assailing the Senator (V, 5123-5126). Propositions relating to breaches of these principles have been entertained as of privilege (V, 5129, 6980).

§ 373. Complaint by one House of conduct of a Member of the other.

Neither House can exercise any authority over a Member or officer of the other, but should complain to the House of which he is, and leave the punishment to them.

In a notable instance, wherein a Member of the House had assaulted a Senator in the Senate Chamber for words spoken in debate, the Senate examined the breach of privilege and transmitted its report to the House, which punished the Member (II, 1622). A Senator having assailed a House Member in debate, the House messaged to the Senate a resolution declaring the language a breach of privilege and requested the Senate to take appropriate action (September 27, 1951, p. 12270). The Senator subsequently asked unanimous consent to correct his remarks in the permanent Congressional Record, but objection was raised (September 28, 1951, p. 12383). But where certain Members of the House, in a published letter, sought to influence the vote of a Senator in an impeachment trial, the House declined to consider the matter as a breach of privilege (III, 2657). While on one occasion it was held that a resolution offered in the House requesting the Senate to expunge from the Record statements in criticism of a Member of the House did not constitute a question of privilege, being in violation of the rule prohibiting references to the Senate in debate (VIII, 2519), a properly drafted resolution referring to language published in the record on a designated page of Senate proceedings as constituting a breach of privilege and requesting the Senate to take appropriate action concerning the subject has been held to present a question of the privileges of the House (VIII, 2516).

§ 374. Duty of the Speaker to prevent expressions offensive to the other House.

*** * * Where the complaint is of words disrespectfully spoken by a Member of another House, it is difficult to obtain punishment, because of the rules supposed necessary to be observed (as to the immediate noting down of words) for the security of Members. Therefore it is the duty of the House, and more particularly of the Speak-**

er, to interfere immediately, and not to permit expressions to go unnoticed which may give a ground of complaint to the other House, and introduce proceedings and mutual accusations between the two Houses, which can hardly be terminated without difficulty and disorder. *3 Hats., 51.*

In the House of Representatives this rule of the parliamentary law is considered as binding on the Chair (V, 5130; VIII, 2465), and it is the duty of the Speaker to call to order a Member who criticizes the actions of the Senate, its Members or committees in debate or through an insertion in the Record (Speaker Albert, Apr. 17, 1975, p. 10458; Oct. 7, 1975, pp. 32055–6). Pending consideration of a measure relating to the Senate, the Speaker announced his intention to strictly enforce this provision of Jefferson's Manual prohibiting improper references to the Senate, and to deny recognition to Members violating the prohibition, subject to permission of the House to proceed in order (Speaker O'Neill, June 16, 1982, p. 13843). While the Chair should take the initiative to prevent improper references to the Senate in debate, the Chair will not respond to hypothetical questions as to the propriety of possible characterizations of Senate actions prior to their use in debate (Oct. 24, 1985, p. 28819).

§ 375. Course of the Member when business concerning himself is debating.

No Member may be present when a bill or any business concerning himself is debating; nor is any Member to speak to the merits of it till he withdraws. *2 Hats., 219.* The rule is that if a charge against a Member arise out of a report of a committee, or examination of witnesses in the House, as the Member knows from that to what points he is to direct his exculpation, he may be heard to those points before any question is moved or stated against him. He is then to be heard, and withdraw before any question is moved. But if the question itself is the charge, as for breach of order or matter arising in the debate, then the charge must be stated (that is, the question must be moved), himself heard, and then to withdraw. *2 Hats., 121, 122.*

In 1832, during proceedings for the censure of a Member, the Speaker informed the Member that he should retire (II, 1366); but this seems to be an exceptional instance of the enforcement of the law of Parliament. In other cases, after the proposition for censure or expulsion has been proposed, Members have been heard in debate, either as a matter of right (II, 1286), as a matter of course (II, 1246, 1253), by express provision (II, 1273), and in writing (II, 1273), or by unanimous consent (II, 1275). A Member against whom a resolution of censure was pending was asked by the Speaker if he desired to be heard (VI, 236). But a Member was not permitted to depute another Member to speak in his behalf (II, 1273). In modern practice the Member has been permitted to speak in his own behalf, both in censure (June 10, 1980, pp. 13802–11) and expulsion proceedings (Oct. 2, 1980, pp. 28953–78). A Member-elect has been permitted to participate in debate on a resolution relating to his right to take the oath (Jan. 10, 1967, p. 23).

§ 376. Disqualifying personal interest of a Member.

Where the private interests of a Member are concerned in a bill or question he is to withdraw. And where such an interest has appeared, his voice has been disallowed, even after a division. In a case so contrary, not only to the laws of decency, but to the fundamental principle of the social compact, which denies to any man to be a judge in his own cause, it is for the honor of the House that this rule of immemorial observance should be strictly adhered to. *2 Hats., 119, 121; 6 Grey, 368.*

In the House of Representatives it has not been usual for the Member to withdraw when his private interests are concerned in a pending measure, but the House has provided by Rule (Rule VIII, clause 1) that the Member shall not vote in such a contingency. In one instance the Senate disallowed a vote given by a Senator on a question relating to his own right to a seat; but the House has never had occasion to proceed so far (V, 5959).

§ 377. Wearing of hats by Members.

No Member is to come into the House with his head covered, nor to remove from one place to another with his hat on, nor is to put on his hat in coming in or removing, until he be set down in his place. *Scob., 6.*

Until 1837 the parliamentary practice of wearing hats during the session continued in the House; but in that year it was abolished by rule (Rule XIV, clause 7).

§ 378. Adjournment of questions of order.

A question of order may be adjourned to give time to look into precedents. *2 Hats., 118.*

The Speaker has declined, on a difficult question of order, to rule until he had taken time for examination (III, 2725; VI, 432; VII, 2106; VIII, 2174, 2396, 3475), but it is conceivable that a case might arise wherein this privilege of the Chair would require approval of the majority of the House, to prevent arbitrary obstruction of the pending business by the Chair. On occasion, the Chair has reversed as erroneous a decision previously made (VI, 639; VII, 849; VIII, 2794, 3435). The law of Parliament evidently contemplates that the adjournment of a question of order shall be controlled by the House.

§ 379. House's control over question of the Speaker.

In Parliament, all decisions of the Speaker may be controlled by the House. *3 Grey, 319.*

The Speaker's decision on a decision of order is subject to appeal by any Member (clause 4, Rule I).

SEC. XVIII.—ORDERS OF THE HOUSE.

§ 380. Keeping of the doors of the House.

Of right, the door of the House ought not to be shut, but to be kept by porters, or Sergeants-at-Arms, assigned for that purpose. *Mod ten. Parl., 23.*

§ 381. Right of the Member to demand execution of the subsisting order.

The only case where a Member has a right to insist on anything, is where he calls for the execution of a subsisting order of the House. Here there having been already a resolution, any person has a right to insist that the Speaker, or any other whose duty it is, shall carry it into execution; and no debate or delay can be had on it.

§ 382. Parliamentary law for clearing the galleries.

Thus any Member has a right to have the House or gallery cleared of strangers, an order existing for that purpose; or to have the House told when there is not a quorum present. *2 Hats., 87, 129.* How far an order of the House is binding, see *Hakew., 392.*

Any Member has a right at any time to demand the execution of a rule of order of the House of Representatives, including the rule prescribing the daily order of business (IV, 3058). He does this by calling for the "regular order." He may not, however, demand that the galleries be cleared, as the House, in which this power resides (II, 1353), has by rule extended the power to the Speaker (Rule I, clause 2) and the chairman of the Committee of the Whole (Rule XXIII, clause 1), but not to the individual Member.

§ 383. Parliamentary law as to proceeding with orders of the day.

But where an order is made that any particular matter be taken up on a particular day, there a question is to be put, when it is called for, whether the House will now proceed to that matter? Where orders of the day are on important or interesting matter, they ought not to be proceeded on till an hour at which the House is usually full [which in Senate is at noon].

The rule of the House of Representatives providing for raising the question of consideration (Rule XVI, clause 3) has, in connection with the practice as to special orders, superseded this provision of the parliamentary law. The House always proceeds with business at its hour of meeting, unless prevented by a point that no quorum is present (IV, 2732).

§ 384. Orders of the day now obsolete.

Orders of the day may be discharged at any time, and a new one made for a different day, *3 Grey, 48, 313.*

The House of Representatives found the use of "Orders of the day" as a method of disposing business impracticable as long ago as 1818, and not long after abandoned their use (IV, 3057), although an interesting reference to them survives in Rule XXIV, clause 1. The House proceeds under Rule XXIV unless that order is displaced by the use of "special orders" or the intervention of privileged business.

§ 385. Business at the end of a session.

When a session is drawing to a close and the important bills are all brought in, the House, in order to prevent interruption by further unimportant bills, sometimes comes to a resolution that no new bill be brought in, except it be sent from the other House. *3 Grey, 156.*

This provision is obsolete so far as the practice of the House of Representatives is concerned, as business goes on uninterruptedly until the Congress expires (Rule XXVI).

§ 386. Effect of end of the session on existing orders, especially as to imprisonment.

All orders of the House determine with the session; and one taken under such an order may, after the session is ended, be discharged on a habeas corpus. *Raym., 120; Jacob's L. D. by Ruffhead; Parliament, 1 Lev., 165, Pitchara's case.*

The House of Representatives, by Rule XXVI and the practice thereunder, has modified the rule of Parliament as to business pending at the end of a session which is not at the same time the end of a Congress. A standing order, like that providing for the hour of daily meeting of the House, expires with a session (I, 104–109); but the House uses few standing orders. In 1866 the House discussed its power to imprison for a period longer than the duration of the existing session (II, 1629), and in 1870, for assaulting a Member returning to the House from absence on leave. Patrick Woods was committed for a term extending beyond the adjournment of the session, but not beyond the term of the existing House (II, 1628).

§ 387. Jefferson's views as to the constitutional power to make rules.

Where the Constitution authorizes each House to determine the rules of its proceedings it must mean in those cases (legislative, executive, or judiciary) submitted to them by the Constitution, or in something relating to these, and necessary toward their execution. But orders and resolutions are sometimes entered in the journals having no relation to these, such as acceptances of invitations to attend orations, to take part in procession, etc. These must be understood to be merely conventional among those who are willing to participate in the ceremony, and are therefore, perhaps, improperly placed among the records of the House.

§ 388. The House's construction of its power to adopt rules.

The House of Representatives has frequently examined its constitutional power to make rules, and this power has also been discussed by the Supreme Court (V, 6755). It has been settled that Congress may not by law interfere with the constitutional right of a future House to make its own rules (I, 82; V, 6765, 6766), or to determine for itself the order of proceedings in effecting its organization (I, 242-245; V, 6765, 6766). It has also been determined, after long discussion and trial by practice, that one House may not continue its rules in force to and over its successor (I, 187, 210; V, 6002, 6743-6747; January 22, 1971, p. 132). A law passed by the existing Congress has been recognized as of binding force in matters of procedure (II, 1341; V, 6767, 6768); but when a law passed by a preceding Congress has assumed to lay down a rule of procedure the House has inclined to doubt the validity of the law (V, 6766), and in one case the Chair has denied the authority of a law of this nature which was in conflict with a rule of the House (IV, 3579). The theories involved in this question have been most carefully examined and decisively determined in reference to the law of 1851, which directs the method of procedure for the House in its constitutional function of judging the elections of its Members; and it has been determined that this law is not of absolute binding force on the House, but rather a wholesome rule not to be departed from except for cause (I, 597, 713, 726, 833; II, 1122). Under current practice, the House in the resolution adopting its rules adopts provisions of law, and of concurrent resolutions adopted pursuant to law which have constituted rules of the House at the expiration of the preceding Congress, as the rules of the new House (see H. Res. 5, Jan. 3, 1983, p. 34; § 1013, infra).

As to the participation on occasions of ceremony, the House has entered its orders on its journal; but it rarely attends outside the Capitol building as a body, usually preferring that its Members go individually (V, 7061-7064) or that it be represented by a committee (V, 7053-7056). It has discussed, but not settled, its power to compel a Member to accompany it without the Hall on an occasion of combined business and ceremony (II, 1139). But the House remains in session for the inauguration of the President on the portico of the Capitol (Jan. 20, 1969, pp. 1288-92) and the mace is carried to the ceremony.

SEC. XIX.—PETITION.

§ 389. Petitions, remonstrances, and memorials.

A petition prays something. A remonstrance has no prayer. *1 Grey, 58.*

The rules of the House of Representatives make no mention of remonstrances, but do mention petitions and memorials (Rule XXII). Resolutions of state legislatures and of primary assemblies of the people are received as memorials (IV, 3326, 3327), but papers general or descriptive in form may not be presented as memorials (IV, 3325).

§ 390. Signing and presentation of petitions.

Petitions must be subscribed by the petitioners *Scob., 87; L. Parl., c. 22; 9 Grey, 362,* unless they are attending, *1 Grey, 401* or unable to sign, and averred by a member, *3 Grey, 418.* But a petition not subscribed, but which the member presenting it affirmed to be all in the handwriting of the petitioner, and his name written in the beginning, was on the question (March 14, 1800) received by the Senate. The averment of a member, or of somebody without doors, that they know the handwriting of the petitioners, is necessary, if it be questioned. *6 Grey, 36.* It must be presented by a member, not by the petitioners, and must be opened by him holding it in his hand. *10 Grey, 57.*

In the House of Representatives petitions have been presented for many years by filing with the Clerk (Rule XXII, clause 1). Members file them, and petitioners do not attend on the House in the sense implied in the parliamentary law. In cases where a petition set forth serious changes, the petitioner was required to have his signature attested by a notary (III, 2030, footnote).

§ 391. Parliamentary law for the reception of petitions.

Regularly a motion for receiving it must be made and seconded, and a question put, whether it shall be received, but a cry from the House of "received," or even silence, dispenses with the formality of this question. It is then to be read at the table and disposed of.

Prior to the adoption of the provisions of Rule XXII, clause 1, petitions were presented from the floor by Members, and questions frequently arose as to the reception thereof (IV, 3350–3356). But under the present practice such procedure does not occur.

SEC. XX.—MOTION.

§ 392. Parliamentary law as to making, withdrawing, and reading of motions.

When a motion has been made, it is not to be put to the question or debated until it is seconded. *Scob., 21.*

It is then, and not till then, in possession of the House, and can not be withdrawn but by leave of the House. It is to be put into writing, if the House or Speaker require it, and must be read to the House by the Speaker as often as any Member desires it for his information. *2 Hats., 82.*

The rules of the House of Representatives (Rule XVI, clause 1) have long since dispensed with the requirement of a second for ordinary motions (V, 5304). Rule XVI, clause 2, provides further that a motion may be withdrawn "before decision or amendment;" and clause 1 of the same rule provides that the motion shall be reduced to writing "on the demand of any Member." In the practice of the House, when a paper on which the House is to vote has been read once, the reading may not be required again unless the House shall order it read (V, 5260).

§ 393. Interruptions of the Member having the floor.

It might be asked whether a motion for adjournment or for the orders of the day can be made by one Member while another is speaking? It can not. When two Members offer to speak, he who rose first is to be heard, and it is a breach of order in another to interrupt him, unless by calling him to order if he departs from it. And the question of order being decided, he is still to be heard through. A call for adjournment, or for the order of the day, or for the question, by gentlemen from their seats, is not a motion.

§ 394. Members required to rise to make motions, call for the order of business, etc.

No motion can be made without rising and addressing the Chair. Such calls are themselves breaches of order, which, though the Member who has risen may respect, as an expression of impatience of the House against further debate, yet, if he chooses, he has a right to go on.

The practice of the House of Representatives has modified the principle that the Member who rises first is to be recognized (Rule XIV, clause 2); but in other respects the principles of this paragraph of the law of Parliament are in force.

SEC. XXI.—RESOLUTIONS.

§ 395. Orders and resolutions of the House.

When the House commands, it is by an "order." But fact, principles, and their own opinions and purposes, are expressed in the form of resolutions.

A resolution for an allowance of money to the clerks being moved, it was objected to as not in order, and so ruled by the Chair; but on appeal to the Senate (*i.e.,* a call for their sense by the

President, on account of doubt in his mind, according to Rule XX, clause 2) the decision was overruled. *Jour., Senate, June 1, 1796.* I presume the doubt was, whether an allowance of money could be made otherwise than by bill.

§ 396. Concurrent resolutions of the two Houses.

In the modern practice concurrent resolutions have been developed as a means of expressing fact, principles, opinions, and purposes of the two Houses (II, 1566, 1567). Joint committees are authorized by resolutions of this form (III, 1998, 1999), and they are used in authorizing correction of bills agreed to by both Houses (VII, 1042), amendment of enrolled bills (VII, 1041), amendment of conference reports (VIII, 3308), requests for return of bills sent to the President (VII, 1090, 1091), authorizing the printing of certain enrolled bills by hand in the remaining days of a session (H. Con. Res. 436, Dec. 20, 1982, p. 32875), providing for joint session to receive message from the President (VIII, 3335, 3336), authorizing the printing of congressional documents (H. Con. Res. 66, July 1, 1969, p. 17948); paying a birthday tribute to former President Truman (H. Con. Res. 216, Apr. 24, 1969, p. 10213); calling for the humane treatment of prisoners of war in Vietnam (H. Con. Res. 454, Dec. 15, 1969, p. 39037), and fixing time for final adjournment (VIII, 3365). The Congressional Budget Act of 1974 (Public Law 93-344) provides for the adoption by both Houses of concurrent resolutions on the budget which become binding on both Houses with respect to congressional budget procedures (see § 1007, infra). A concurrent resolution is binding on neither House until agreed to by both (IV, 3379), and, since not legislative in nature, is not sent to the President for approval (IV, 3483).

§ 397. Joint resolutions.

Another development of the modern practice is the joint resolution, which is a bill so far as the processes of the Congress in relation to it are concerned (IV, 3375; VII, 1036). With the exception of joint resolutions proposing amendments to the Constitution (V, 7029), all these resolutions are sent to the President for approval and have the full force of law. They are used for what may be called the incidental, unusual, or inferior purposes of legislating (IV, 3372), as extending the national thanks to individuals (IV, 3370), the invitation to La Fayette to visit America (V, 7082, footnote), the welcome to Kossuth (V, 7083), notice to a foreign government of the abrogation of a treaty (V, 6270), declaration of intervention in Cuba (V, 6321), correction of an error in an existing act of legislation (IV, 3519; VII, 1092), enlargement of scope of inquiries provided by law (VII, 1040), election of managers for National Soldiers' Homes (V, 7336), special appropriations for minor and incidental purposes (V, 7319), continuing appropriations (H.J. Res. 790, Public Law 91-33, p. 17015); establishing the date for convening of Congress (H.J. Res.

1041, Public Law 91-182, p. 40982); extending the submission date under law for transmittal of the Budget and Economic Report to Congress by the President (H.J. Res. 635, Public Law 97-469, p. ——); and extending the termination date for a law (H.J. Res. 864, Public Law 91-59, p. 22546). At one time they were used for purposes of general legislation; but the two Houses finally concluded that a bill was the proper instrumentality for this purpose (IV, 3370-3373). A joint resolution has been changed to a bill by amendment (IV, 3374), but in the later practice it has become impracticable to do so.

Where a choice between a concurrent resolution and a joint resolution is not dictated by law, the House by its votes on consideration of a measure decides which is the appropriate vehicle (and a point of order does not lie that a concurrent rather than a joint resolution would be more appropriate to express the sense of the Congress on an issue) (Mar. 16, 1983, p. 5669).

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SEC. XXIII.—BILLS, LEAVE TO BRING IN.

§ 398. Obsolete provisions as to introduction of bills.

When a Member desires to bring in a bill on any subject, he states to the House in general terms the causes for doing it, and concludes by moving for leave to bring in a bill, entitled, &c. Leave being given, on the question, a committee is appointed to prepare and bring in the bill. The mover and seconder are always appointed of this committee, and one or more in addition. *Hakew., 132; Scob., 40.* It is to be presented fairly written, without any erasure or interlineation, or the Speaker may refuse it. *Scob., 41; 1 Grey, 82, 84.*

This provision is obsolete, Rule XXII, clause 1-4, providing an entirely different method of introducing bills. The introduction of bills by leave was gradually dropped by the practice of the House, and after 1850 the present free system of permitting Members to introduce at will bills for printing and reference began to develop (IV, 3365).

SEC. XXIV.—BILLS, FIRST READING.

§ 399. Obsolete requirements as to first reading of bills.

When a bill is first presented, the Clerk reads it at the table, and hands it to the Speaker, who, rising, states to the House the title of the bill; that this is the first time of reading it; and the question will be, whether it shall be read a second time? then sitting down to give an opening for objections. If none be made, he rises again, and puts the question, whether it shall be read a second time? *Hakew., 137, 141.* A bill cannot be amended on the first reading, *6 Grey, 286;* nor is it usual for it to be opposed then, but it may be done, and rejected. *D'Ewes, 335, col. 1; 3 Hats., 198.*

This provision is obsolete, the practice under Rule XXI, clause 1, now governing the procedure of the House of Representatives.

SEC. XXV.—BILLS, SECOND READING.

§ 400. Obsolete parliamentary law as to second reading.

The second reading must regularly be on another day. *Hakew., 143.* It is done by the Clerk at the table, who then hands it to the Speaker. The Speaker, rising, states to the House the title of the bill; that this is the second time of reading it; and that the question will be, whether it shall be committed, or engrossed and read a third time? But if the bill came from the other House, as it always comes engrossed, he states that the question will be, whether it shall be read a third time? and before he has so reported the state of the bill, no one is to speak to it. *Hakew., 143, 146.*

In the Senate of the United States, the President reports the title of the bill; that this is the second time of reading it; that it is now to be considered as in a Committee of the Whole; and the question will be, whether it shall be read a third time? or that it may be referred to a special committee?

The provisions of this paragraph are to a large extent obsolete so far as the House of Representatives is concerned, the practice under Rule XXI, clause 1, now governing.

SEC. XXVI.—BILLS, COMMITMENT.

§ 401. Parliamentary law (largely obsolete) as to reference of bills to committees.

If on motion and question it be decided that the bill shall be committed, it may then be moved to be referred to Committee of the Whole House, or to a special committee. If the latter, the Speaker proceeds to name the committee. Any member also may name a single person, and Clerk is to write him down as of the committee. But the House have a controlling power over the names and number, if a question be moved against any one; and may in any case put in and put out whom they please.

This paragraph is to a large extent obsolete under the rules and practice of the House of Representatives. Bills are referred in the first instance by the Speaker to standing committees as prescribed by the rules (Rules X and XXII), and references of reported bills to the proper calendar of the House are also made under direction of the Speaker (Rule XIII, clause 2). Reference of a matter under consideration is made by a motion to refer which specifies the committee and may provide for a select committee of a specified number of persons (IV, 4402). But such committee is appointed only by the Speaker (Rule X, clause 6(e)).

Rule XVII provides that the Speaker may entertain a motion to commit with or without instructions to a standing committee.

§ 402. Obsolete provisions as to constitution of committees.

Those who take exceptions to some particulars in the bill are to be of the committee, but none who speak directly against the body of the bill; for he that would totally destroy will not amend it, *Hakew., 146; Town., col., 208; D'Ewes, 634, col. 2; Scob., 47;* or as is said, *5 Grey, 145,* the child is not to be put to a nurse that cares not for it, *6 Grey, 373.* It is therefore a constant rule "that no man is to be employed in any matter who has declared himself against it." And when any member who is against the bill hears himself named of its committee he ought to ask to be excused. Thus, March 7, 1806, Mr. Hadley was, on the question being put, excused from being of a committee, declaring himself to be against the matter itself. *Scob., 46.*

This provision is entirely inapplicable in the House of Representatives, where the standing committees with majority and minority representation (IV, 4467, 4477, footnote, 4478) consider most of the bills. And in the infrequent occasions when a select committee is appointed the minority party is always represented in the membership.

§ 403. Delivery of bills to committees.

The Clerk may deliver the bill to any member of the committee, *Town, col. 138;* but it is usual to deliver it to him who is first named.

Following introduction, reference, and numbering, bills are sent to the Government Printing Office for printing. Printed copies of all bills are distributed in accordance with law (44 U.S.C. 706) and copies are made available to the committee to which referred.

§ 404. Obsolete provision for ordering a committee to withdraw and bring back a bill.

In some cases the House has ordered a committee to withdraw immediately into the committee chamber and act on and bring back the bill, sitting the House. *Scob., 48.* * * *

This procedure is rarely followed in the House of Representatives, since the order of business does not provide for such a motion unless it is offered by unanimous consent.

§ 405. Commital with directions to report forthwith.

When a bill is under consideration, however, the House may on motion commit it with instructions to report "forthwith" with certain specified amendment (V, 5548, 5549), in which case the chairman of the committee reports at once without awaiting action of the committee (V, 5545-5547; VIII, 2730, 2732) and the bill is in order for immediate consideration (V, 5550; VIII, 2735).

§ 406. Discharge of a committee.

The motion to discharge a committee from the consideration of an ordinary legislative proposition is not privileged under the rules (IV, 3533, 4693; VIII, 2316), but where a matter involves a question of privilege (III, 2585, 2709; VIII, 2316), or is privileged under the rule relating to resolutions of inquiry (Rule XXII, clause 5; III, 1871; IV, 4695) or is provided privilege under statutes enacted under the rulemaking power of the House (see sec. 1013, infra.), the motion to discharge is admitted. The motion is not debatable (III, 1868; IV, 4695), except under clause 4, Rule XXVII, and may be laid on the table (V, 5407; VI, 415), but the question of consideration may not be demanded against it (V, 4977).

§ 407. Meetings and action of committees.

*** * * A committee meet when and where they please, if the House has not ordered time and place for them, *6 Grey, 370;* but they can only act when together, and not by separate consultation and consent—nothing being the report of the committee but what has been agreed to in committee actually assembled.**

For discussion of committee procedure generally, see sec. 704a, infra. In the House of Representatives the standing committees usually meet in their committee rooms, but there is no rule requiring them to meet there, and in the absence of direction by the House, committees designate the time and place of their meetings (VIII, 2214).

Standing committees fix regular weekly, biweekly, or monthly meeting days for the transaction of business [not less infrequently than monthly] [Rule XI, clause 2(b)], and additional meetings may be called by the chairman as he may deem necessary or by a majority of the committee in certain circumstances [Rule XI, clause 2(c)]. Where a committee has a fixed date of meeting, a quorum of the committee may convene on such date without call of the Chairman and transact business regardless of his absence (VIII, 2214). A committee meeting being adjourned by the chairman for lack of a quorum, a majority of the members of the committee may not, without the consent of the chairman, call a meeting of the committee on the same day (VIII, 2213).

§ 408. Authorization of reports of committees.

The House has adhered to the principle that a report must be authorized by a committee acting together, and a paper signed by a majority of the committee acting separately was ruled out [IV, 4584; VIII, 2210–2212, 2220; see also Rule XI, clause 2(l)(2)(A)]. Where a public bill or resolution is ordered reported by a record vote, the committee report must disclose the number of votes for and against the motion [Rule XI, clause 2(l)(2)(B)]. It is the duty of the chairman of each committee to report or cause to be reported promptly any measure approved by his committee and to take or cause to be taken necessary steps to bring the matter to a vote [Rule XI, clause 2(l)(1)(A)]; and clause 2(l)(1)(B) specifies that a report must be filed within seven days following the submission of a written request, signed by a majority of the committee members, directing such filing. A motion in committee directing its Chairman to use all parliamentary means to bring a bill before the House was held to include the right to call up the bill on Calendar Wednesday (VII, 2217). Clause 2(l)(1)(A) of Rule XI, requiring the chairman of each committee to report or cause to be reported promptly measures approved by his committee and to take such necessary steps to bring the matter to a vote, is sufficient authority for the chairman to call up a bill on Calendar Wednesday (Speaker Rayburn, Feb. 22, 1950, p. 2161). No measure or recommendation shall be reported from any committee unless a majority of the committee were actually present [Rule XI, clause 2(l)(2)(A)]. A report is sometimes authorized by less than a majority of the whole committee, some members being silent or absent (II, 985, 986). In a rare instance a majority of a committee agreed to a report, but disagreed on the facts necessary to sustain the report (I, 819). In the situation where a committee finds itself unable to agree to a positive recommendation, being equally divided, it may report the fact to the House (I, 347; IV, 4665, 4666) and may include evidence, majority and minority views (III, 2403), minority views alone (II, 945), or propositions representing the opposing contentions (III, 2497; IV, 4664). It is not essential that the report of a committee be signed (II, 1274; VIII, 2229), but the minority or other separate views are signed by those concurring in them (IV, 4671; VIII, 2229).

In a case where a majority of a committee signed a report it was held valid, although a necessary one of that majority did not concur in all the statements (IV, 4587). If a report is actually sustained by the majority of a committee, it is not impeached by the fact that a lesser number sign it (II, 1091), or by the fact that later by the action of absentees more than a majority of the whole committee are found to have signed minority views (IV, 4585). Objection being made that a report had not been authorized by a committee and there being doubt as to the validity of the authorization, the question as to the reception of the report is submitted to the House (IV, 4588–4591). But where the Speaker is satisfied of the validity or of the invalidity of the authorization he may decide the question (IV, 4584, 4592, 4593; VIII, 2211, 2212, 2222–2224). And in a case wherein it was shown that a majority of a committee had met and authorized a report he did not heed the fact that the meeting was not regularly called (IV, 4594). A bill improperly reported is not entitled to its place on the calendar (IV, 3117); but the validity of a report may not be questioned after the House has voted to consider it (IV, 4598), or after actual consideration has begun (IV, 4599; VIII, 2223, 2225).

§ 409. The quorum of a select or standing committee.

A majority of the committee constitutes a quorum for business. *Elsynge's Method of Passing Bills, 11.*

Each Committee may fix the number of its members, but not less than two, to constitute a quorum for taking testimony and receiving evidence; and except for the Committees on Appropriations, Budget, and Ways and Means, a committee may fix the number of members to constitute a quorum, which shall be not less than one-third of its members, for taking certain other actions [Rule XI, clause 2(h)]. However, no measure or recommendations shall be reported from any committee or subcommittee unless a majority of the committee were actually present [Rule XI, clause 2(l) and 2(h)]; nor shall a committee or subcommittee vote without a majority present to authorize a subpoena under clause 2(m), Rule XI or to close a meeting or hearing under clause 2 (a) and (g), Rule XI (except as provided under clause 2(g)(2)(A) with respect to certain hearing procedures).

A quorum of a committee may transact business and a majority of the quorum, even though it be a minority of the whole committee, may authorize a report (IV, 4586), but an actual quorum of a committee must be present to make action taken valid (VIII, 2212, 2222), unless the House authorizes less than a quorum to act (IV, 4553, 4554). A quorum of a committee must be present when alleged perjurious testimony is given in order to support a charge of perjury (Christoffel *v.* U.S., 388 U.S. 84). The absence of a quorum of a committee at the time a witness willfully fails to produce subpoenaed documents is not a valid defense in a prosecution for contempt where the witness failed to raise that objection before the committee (U.S. *v.* Bryan, 339 U.S. 323; U.S. *v.* Fleischman, 339 U.S. 349).

§ 410. Presence of a Member of the House in a select committee.

Any Member of the House may be present at any select committee, but cannot vote, and must give place to all of the committee, and sit below them. *Elsynge, 12; Scob., 49.*

This phrase must be read in conjunction with the power of a committee of the House to conduct proceedings in executive session (see Rule XI, clause 2(g)(1) and (2)). Thus, a committee may close its doors in executive session meetings to persons not invited or required, including Members of the House who are not members of the committee (III, 1694; IV, 4558–4565; see discussion at IV, 4540). In the 95th Congress, Rule XI, clause 2(g)(2) was amended to prohibit the exclusion of noncommittee members from nonparticipatory attendance in any closed hearing, except in the Committee on Standards of Official Conduct, unless the House by majority vote authorizes a committee or subcommittee to close its hearings to noncommittee members (H. Res. 5, 95th Cong., January 4, 1977, pp. 53–70).

§ 411. Power of committees over the body and title of a bill.

The committee have full power over the bill or other paper committed to them, except that they cannot change the title or subject. *8 Grey, 228.*

In the House of Representatives committees may recommend amendments to the body of a bill or to the title but may not otherwise change the text.

§ 412. Parliamentary law governing consideration of bills, etc., in committees.

The paper before a committee, whether select or of the whole, may be a bill, resolutions, draught of an address, &c., and it may either originate with them or be referred to them. In every case the whole paper is read first by the Clerk, and then by the chairman, by paragraphs, *Scob., 49,* pausing at the end of each paragraph, and putting questions for amending, if proposed. In the case of resolutions or distinct subjects, originating with themselves, a question is put on each separately, as amended or unamended, and no final question on the whole, *3 Hats., 276;* but if they relate to the same subject, a question is put on the whole. If it be a bill, draught of an address, or other paper originating with them, they proceed by paragraphs, putting questions for amending, either by insertion or striking out, if proposed; but no question on agreeing to the paragraphs separately; this is reserved to the close, when a question is put on the whole, for agreeing to it as amended or unamended. But if it be a paper referred to them, they proceed to put questions of amendment, if proposed, but no final question on the whole; because all parts of the paper, having been adopted by the House, stand, of course, unless altered or struck out by a vote. Even if they are opposed to the whole paper, and think it cannot be made good by amendments, they cannot reject it, but must report it back to the House without amendments, and there make their opposition.

In the House of Representatives it has generally been held that a select or standing committee may not report a bill unless the subject matter has been referred to it (IV, 4355–4360), except that under the modern practice reports filed from the floor as privileged pursuant to clause 4(a), Rule XI have been permitted on bills and resolutions originating in certain committees and not formally referred thereto. Pursuant to this paragraph some committees have originated drafts of bills for consideration and amendment prior to the introduction and referral of a numbered bill to committee(s). In the older practice the Committee of the Whole originated resolutions and bills (IV, 4705); but the later development of the rules governing the order of business would prevent the offering of a motion to go into Committee of the Whole for such a purpose, except by unanimous consent.

§ 413. Order of amendment bills in the House.

The natural order in considering and amending any paper is, to begin at the beginning, and proceed through it by paragraphs; and this order is so strictly adhered to in Parliament, that when a latter part has been amended, you cannot recur back and make an alteration in a former part. *2 Hats., 90.* In numerous assemblies this restraint is doubtless important. But in the Senate of the United States, though in the main we consider and amend the paragraphs in their natural order, yet recurrences are indulged; and they seem, on the whole, in that small body, to produce advantages overweighing their inconveniences.

In the House of Representatives, amendments to House bills are made before the previous question is ordered, pending the engrossment and third reading (IV, 3392; V, 5781; VII, 1051), and to Senate bills before the third reading (IV, 3393). Amendments may be offered to any part of the bill without proceeding consecutively section by section or paragraph by paragraph (IV, 3392). In Committee of the Whole, bills are read section by section or paragraph by paragraph and after a section or paragraph has been passed it is no longer subject to amendment (Rule XXIII, clause 5, and § 872; July 12, 1961, p. 12405).

§ 414. Preamble amended after the body of the bill or resolution has been considered.

To this natural order of beginning at the beginning there is a single exception found in parliamentary usage. When a bill is taken up in committee, or on its second reading, they postpone the preamble till the other parts of the bill are gone through. The reason is, that on consideration of the body of the bill such alterations may therein be made as may also occasion the alteration of the preamble. *Scob., 50; 7 Grey, 431.*

On this head the following case occurred in the Senate, March 6, 1800: A resolution which had no preamble having been already amended by the House so that a few words only of the original remained in it, a motion was made to prefix a preamble, which having an aspect very different from the resolution, the mover intimated that he should afterwards propose a correspondent amendment in the body of the resolution. It was objected that a preamble could not be taken up till the body of the resolution is done with; but the preamble was received, because we are in fact through the body of the resolution; we have amended that as far as amendments have been offered, and, indeed, till little of the original is left. It is the proper time, therefore, to consider a preamble; and whether the one offered be consistent with the resolution is for the House to determine. The mover, indeed, has intimated that he shall offer a subsequent proposition for the body of the resolution; but the House is not in possession of it; it remains in his breast, and may be withheld. The rules of the House can only operate on what is before them. The practice of the Senate, too, allows recurrences backward and forward for the purpose of amendment, not permitting amendments in a subsequent to preclude those in a prior part, or *e converso*.

In the practice of the House of Representatives the preamble of a joint resolution is amended after the engrossment and before the third reading (IV, 3414; V, 5469, 5470; VII, 1064), but the preamble is not voted on separately in the later practice even if amended, since the question on passage covers the preamble as well as the resolving clause (Oct. 29, 1975, p. 34283). After an amendment to the preamble has been considered it is too late to propose amendments to the text of the bill (VII, 1065). In Committee of the Whole, amendments to the preamble of a joint resolution are considered following disposition of any amendments to the resolving clause (Mar. 9, 1967, pp. 6032–34; Mar. 22, 1967, pp. 7679–83). On the passage of a joint resolution a separate vote may not be demanded on the preamble (V, 6147, 6148); but where a simple resolution of the House has a preamble, the preamble may be laid on the table without affecting the status of the accompanying resolution (V, 5430). Amendments to the preamble of a concurrent or simple resolution are considered in the House following the adoption of the resolution (December 4, 1973, p. 39337; June 8, 1970, pp. 18668–71).

§ 415. Directions of a committee for making of its report.

When the committee is through the whole, a Member moves that the committee may rise, and the chairman report the paper to the House, with or without amendments, as the case may be. *2 Hats., 289, 292; Scob., 53; 2 Hats., 290; 8 Scob., 50.*

Clause 2(l)(1)(A) of Rule XI provides that it shall be the duty of the Chairman of each committee to report or cause to be reported promptly any measure approved by his committee and to take or cause to be taken necessary steps to bring the matter to a vote; and in any event, the report of a committee must be filed within seven calendar days (exclusive of days when the House is not in session) after a majority of the committee has invoked the procedures of clause 2(l)(1)(B), Rule XI. In the House of Representatives, a committee may order its report to be made by the chairman (IV, 4669), or by any other member of the committee (IV, 4526), even though he be a member of the minority party (IV, 4672, 4673; VIII, 2314). A committee report may be filed by a Delegate (July 1, 1958, p. 12870). Only the chairman makes report for the Committee of the Whole (V, 6987).

§ 416. As to reconsideration of a vote in committee.

When a vote is once passed in a committee it cannot be altered but by the House, their votes being binding on themselves. *1607, June 4.*

This provision of the parliamentary law has been held to prevent the use of the motion to reconsider in Committee of the Whole (IV, 4716–4718; VIII, 2324, 2325) but it is in order in the House as in the Committee of the Whole (VIII, 2793). The early practice seems to have inclined against the use of the motion in a standing or select committee (IV, 4570, 4596), but there is a precedent which authorized the use of the motion (IV, 4570, 4596), and on June 1, 1922, the Committee on Rules rescinded previous action taken by the Committee authorizing a report. In the later practice the motion to reconsider is in order in the standing committees and may be made on the same day on which the action is taken or on the next day thereafter on which the committee convenes with a quorum present (VIII, 2213), but a session adjourned without having secured a quorum is a dies non and not to be counted in determining the admissibility of a motion to reconsider (VIII, 2213). This provision does not prevent a committee from reporting a bill similar to one previously reported by such committee (VIII, 2311).

§ 417. Method of noting amendments to a bill in committee.

The committee may not erase, interline, or blot the bill itself; but must, in a paper by itself set down the amendments, stating the words which are to be inserted or omitted, *Scob., 50,* and where, by references to page, line, and word of the bill. *Scob., 50.*

This practice is still in force as to Senate bills of which the engrossed copies cannot be in any way interlined or altered by House committees. Original copies of House bills are not referred to committees but are maintained indefinitely by the Clerk. Both House and Senate bills are now printed as referred, and committees may thus report either with proposed amendments. In the "official papers" (signed engrossed copies), the engrossed House amendments to a Senate bill would still be shown as a separate message attached to the Senate engrossed bill when returned to the Senate.

SEC. XXVII.—REPORT OF COMMITTEE.

§ 418. Parliamentary method of submitting reports.

The chairman of the committee, standing in his place, informs the House that the committee to whom was referred such a bill, have, according to order, had the same under consideration, and have directed him to report the same without any amendment, or with sundry amendments (as the case may be), which he is ready to do when the House pleases to receive it. And he or any other may move that it be now received; but the cry of "now, now," from the House, generally dispenses with the formality of a motion and question. He then reads the amendments, with the coherence in the bill, and opens the alterations and the reasons of the committee for such amendments, until he has gone through the whole. He then delivers it at the Clerk's table, where the amendments reported are read by the Clerk without the coherence; whereupon the papers lie upon the table till the House, at its convenience, shall take up the report. *Scob., 52; Hakew., 148.*

This provision is to a large extent obsolete so far as the practice of the House of Representatives is concerned. Most of the reports of committees are made by filing them with the Clerk without reading (Rule XIII, clause 2), and only the reports of committees having leave to report at any time are made by the chairman or other member of the committee from the floor [Rule XI, clause 4(a)]. Committee reports must be submitted while the House is in session (with the exception of reports on certain budget resolutions under section 310(a) of the Congressional Budget Act, sec. 1007 infra), and this requirement may be waived by unanimous consent only, and not by motion (Dec. 17, 1982, p. 31951). All reports privileged under clause 4 of rule XI at one time could be called up for consideration immediately after being filed, but since the adoption of H. Res. 988, 93d Congress, such reports—with two exceptions—are subject to the requirement of clause 2(l)(6) of Rule XI and cannot be considered in the House until the third calendar day (excluding Saturdays, Sundays, and legal holidays) on which they are available to Members. The exceptions from the three-day rule, in addition to the exceptions stated in the rule for declarations of war and actions on certain executive determinations, are certain reports from the Committee on Rules [see Rule XI, clause 2(l)(6)] and primary expense resolutions reported from the Committee on House Administration (see Rule XI, clause 5). Reports not filed as privileged under clause 4(a) of Rule XI are subject to the three-day rule unless specifically exempted therefrom [in Rule XI, clause 2(l)(6)] or unless privileged under Rule IX. It has been held, e.g., that a privileged report involving the privileges of the House under Rule IX (such as a report from a committee on the contemptuous conduct of a witness before the committee) would not be subject to the three-day rule (Speaker Albert, July 13, 1971, pp. 24720–23). The general rule (Rule XIII, clause 1) is that reports shall be placed on the calendars of the House, there to await action under the rules for the order of business (Rule XXIV).

§ 419. Reports: dissolution, and revival of select committees.

The report being made, the committee is dissolved and can act no more without a new power. *Scob. 51.* But it may be revived by a vote, and the same matter recommitted to them. *4 Grey, 361.*

This provision does not apply now to the Committees of the Whole or to the standing committees. It does apply to select committees, which expire when they report finally, but may be revived by the action of the House in referring in open House a new matter (IV, 4404, 4405). The provision does not preclude a standing committee from reporting a bill similar to one previously reported by such committee (VIII, 2311).

SEC. XXVIII.—BILL, RECOMMITMENT.

§ 420. Recommittal of a bill to a committee.

After a bill has been committed and reported, it ought not, in any ordinary course, to be recommitted; but in cases of importance, and for special reasons, it is sometimes recommitted, and usually to the same committee. *Hakew, 151.* If a report be recommitted before agreed to in the House, what has passed in committee is of no validity; the whole question is again before the committee, and a new resolution must be again moved, as if nothing had passed. *3 Hats., 131—note.*

In Senate, January, 1800, the salvage bill was recommitted three times after the commitment.

Where a matter is recommitted with instructions the committee must confine itself within the instructions (IV, 4404), and if the instructions relate to a certain portion only of a bill, other portions may not be reviewed (V, 5526). When a report has been disposed of adversely a motion to recommit it is not in order (V, 5559). Bills are sometimes recommitted to the Committee of the Whole as the indirect result of the action of the

House (Rule XXIII, clause 7; IV, 4784) or directly on motion either with or without instructions (V, 5552, 5553).

§ 421. Division of matters for reference to committees.

A particular clause of a bill may be committed without the whole bill, *3 Hats., 131;* or so much of a paper to one and so much to another committee.

In the usage of the House before the rules provided that petitions should be filed with the Clerk instead of being referred from the floor, it was the practice to refer a portion of a petition to one committee and the remainder to another when the subject matter called for such division (IV, 3359). Rule X, clause 5 now permits the Speaker to refer bills, and resolutions, with or without time limitations, either (1) simultaneously to two or more committees for concurrent consideration, (2) sequentially to appropriate committees after the report of the committee or committees initially considering the matter, (3) to divide the matter for referral, (4) to appoint an ad hoc committee with the approval of the House, or (5) to make other appropriate provisions, in order to assure that to the maximum extent feasible each committee with subject matter jurisdiction over provisions in that measure may consider and report to the House with respect thereto. Under former precedents a bill, resolution or communication could not be divided for reference (IV, 4372, 4376).

SEC. XXIX.—BILL, REPORTS TAKEN UP.

§ 422. Consideration and action on reports.

When the report of a paper originating with a committee is taken up by the House, they proceed exactly as in committee. Here, as in committee, when the paragraphs have, on distinct questions, been agreed to *seriatim, 5 Grey, 366; 6 Grey, 368; 8 Grey, 47, 104, 360; 1 Torbuck's Deb., 125; 3 Hats., 348,* no question needs be put on the whole report. *5 Grey, 381.*

In the House of Representatives committees usually report bills, joint resolutions, concurrent resolutions, or simple resolutions. These come before the House for action while the written reports accompanying them, which are always printed, do not (IV, 4674), and even the reading of the reports is in order only in the time of debate (V, 5292). The Chair will not recognize a Member during debate on a bill in the House for unanimous consent to amend the accompanying committee report in a specified manner, as the House should not change the substance of a committee report upon which it is not called on to vote (Apr. 2, 1985, p. 7209). In rare instances, however, committees submit merely written reports without propositions for action. Such reports being before the House may be debated before any specific motion has been made (V, 4987, 4988), and are in such case read to the House (IV, 4663) and after being considered the question is taken on agreeing. In such cases the report appears in full on the Journal (II, 1364; IV, 4675; V, 7177). When reports are acted on in this way it has not been the practice of the House to consider them by paragraphs, but the question has been put on the whole report (II, 1364).

§ 423. Action by the House on amendments recommended by committees.

On taking up a bill reported with amendments the amendments only are read by the Clerk. The Speaker then reads the first, and puts it to the question, and so on till the whole are adopted or rejected, before any other amendment be admitted, except it be an amendment to an amendment. *Elsynge's Mem., 53.* When through the amendments of the committee, the Speaker pauses, and gives time for amendments to be proposed in the House to the body of the bill; as he does also if it has been reported without amendments; putting no questions but on amendments proposed; and when through the whole, he puts the question whether the bill shall be read a third time?

The procedure outlined by this provision of the parliamentary law applies to bills when reported from the Committee of the Whole; but in practice it is usual to vote on the amendments in gross. But any Member may demand a separate vote. The principle that the committee amendments should be voted on before amendments proposed by the House is recognized (IV, 4872–4876; V, 5773; VIII, 2862, 2863), except when it is proposed to amend a committee amendment. The Clerk reads the amendments and the Speaker does not again read them. Frequently the House orders the previous question on the committee amendments and the bill to final passage, thus preventing further amendment. When a bill is of such nature that it does not go to Committee of the Whole, it comes before the House from the House Calendar, on which it has been placed on being reported from the standing or select committee. On being taken from the House Calendar the bill is read through and then the amendments proposed by the committee are read.

SEC. XXX.—QUASI-COMMITTEE.

§ 424. Procedure "in the House as in Committee of the Whole."

If on motion and question the bill be not committed, or if no proposition for commitment be made, then the proceedings in the Senate of the United States and in Parliament are totally different. The former shall be first stated.

The proceeding of the Senate as in a Committee of the Whole, or in quasi-committee, is precisely as in a real Committee of the Whole, taking no question but on amendments. When through the whole, they consider the quasi-committee as risen, the House resumed without any motion, question, or resolution to that effect, and the President reports that "the House, acting as in a Committee of the Whole, have had under their consideration the bill entitled, &c., and have made sundry amendments, which he will now report to the House." The bill is then before them, as it would have been if reported from a committee, and the questions are regularly to be put again on every amendment; which being gone through, the President pauses to give time to the House to propose amendments to the body of the bill, and, when through, puts the question whether it shall be read a third time?

In the House of Representatives procedure "in the House as in Committee of the Whole" is by unanimous consent only, as the order of business gives no place for a motion that business be considered in this manner (IV, 4923). Where the House grants unanimous consent for the immediate consideration of a bill on the Union Calendar, or which would belong on the Union Calendar if reported, the bill is considered in the House as in the Committee of the Whole (Apr. 6, 1966, p. 7749; Aug. 3, 1970, p. 26918; Procedure ch. 22, § 1.3 and ch. 29, § 21). The Committee on Rules may report a resolution providing a special order for consideration of a measure in the House as in Committee of the Whole. (Dec. 18, 1974, p. 40858). In the modern practice of the House an order for this procedure means merely that the bill will be considered as having been read for amendment and will be open for amendment and debate under the five-minute rule (Aug. 10, 1970, p. 28050; Rule XXIII, clause 5), without general debate (IV, 4924, 4925; VI, 639; VIII, 2431, 2432). The Speaker remains in the chair, and when the bill has been gone through, he makes no report but puts the question on ordering the previous question and then on the engrossment and third reading and on the passage.

See § 427, infra, for further description of the procedures applicable to the House as in the Committee of the Whole, and the application of those procedures to committees of the House of Representatives.

§ 425. Motion to refer admitted "in the House' as in Committee of the Whole."

After progress in amending the bill in quasi-committee, a motion may be made to refer it to a special committee. If the motion prevails, it is equivalent in effect to the several votes, that the committee rise, the House resume itself, discharge the Committee of the Whole, and refer the bill to a special committee. In that case, the amendments already made fall. But if the motion fails, the quasi-committee stands *in status quo.*

§ 426. Motions and procedure in quasi-committee in Jefferson's time.

How far does this XXVIIIth rule [of the Senate] subject the House, when in quasi-committee, to the laws which regulate the proceedings of Committees of the Whole? The particulars in which these differ from proceedings in the House are the following: 1. In a committee every member may speak as often as he pleases. 2. The votes of a committee may be rejected or altered when reported to the House. 3. A committee, even of the whole, cannot refer any matter to another committee. 4. In a committee no previous question can be taken; the only means to avoid an improper discussion is to move that the committee rise; and if it be apprehended that the same discussion will be attempted on returning into committee, the House can discharge them, and proceed itself on the business, keeping down the improper discussion by the previous question. 5. A committee cannot punish a breach of order in the House or in the gallery. *9 Grey, 113.* It can only rise and report it to the House, who may proceed to punish. The first and second of these peculiarities attach to the quasi-committee of the Senate, as every day's practice proves, and it seems to be the only ones to which the XXVIIIth rule meant to subject them; for it continues to be a House, and, therefore, though it acts in some respects as a committee, in others it preserves its character as a House. Thus (3) it is in the daily habit of referring its business to a special committee. 4. It admits of the previous question. If it did not, it would have no means of preventing an improper discussion; not being able, as a committee is, to avoid it by returning into the House, for the moment it would resume the same subject there, the XXVIIIth rule declares it again a quasi-committee. 5. It would doubtless exercise its powers as a House on any breach of order. 6. It takes a question by yea and nay, as the House does. 7. It receives messages from the President and the other House. 8. In the midst

of a debate it receives a motion to adjourn, and adjourns as a House, not as a committee.

§ 427. Motions and procedure "in the House as in Committee of the Whole."

In the modern practice of the House of Representatives the rule of Jefferson's Manual is followed to the extent that the House, while acting "in the House as in Committee of the Whole" may deal with disorder, take the yeas and nays, adjourn, refer to a committee even though the reading by sections may not have begun (IV, 4931, 4932), admit the motion to reconsider (VIII, 2793), receive messages (IV, 4923), and use the previous question (VI, 369; Procedure ch. 23, § 6.3) (which differs from the previous question of Jefferson's time). The previous question may not be moved on a single section of a bill (IV, 4930), but it may be demanded on the bill while Members yet desire to offer amendments (IV, 4926–4929; VI, 639). Formerly a motion to close debate on the pending section of a bill being read by section for amendment in the House as in the Committee of the Whole was in order (IV, 4935), but under current practice a bill considered in the House as in Committee of the Whole is considered as read and open for amendment at any point (Aug. 10, 1970, p. 28050), and a motion is in order in the House as in Committee of the Whole to close debate on the bill or on an amendment (June 26, 1973, pp. 21314–15). An amendment may be withdrawn at any time before action has been had on it (IV, 4935; June 26, 1973, p. 21305). An amendment in the nature of a substitute is in order after perfecting amendments have been considered (IV, 4933, 4934; V, 5788). The title also is amended after the bill has been considered (IV, 3416). A quorum of the House (and not of the Committee of the Whole) is required in the House as in the Committee of the Whole (VI, 639).

The procedures applicable in the House as in the Committee of the Whole generally apply to proceedings in committees of the House of Representatives, except that a measure considered in committee must be read (by section) for amendment (see § 412, supra); a motion to limit debate under the five-minute rule in committee must therefore be confined to the portion of the bill then pending, and the previous question may only be moved on the measure in committee if the entire measure has been read, or considered as read, for amendment.

SEC. XXXI.—BILL, SECOND READING IN THE HOUSE.

§ 428. Manner of reading a bill the second time.

In Parliament, after the bill has been read a second time, if on the motion and question it be not committed, or if no proposition for commitment be

made, the speaker reads it by paragraphs, pausing between each, but putting no question but on amendments proposed; but when through the whole, he puts the question whether it shall be read a third time, if it came from the other house, or, if originating with themselves, whether it shall be engrossed and read a third time. The speaker reads sitting, but rises to put questions. The clerk stands while he reads.

But the Senate of the United States is so much in the habit of making many and material amendments at the third reading that it has become the practice not to engross a bill till it has passed—an irregular and dangerous practice, because in this way the paper which passes the Senate is not that which goes to the other House, and that which goes to the other House as the act of the Senate has never been seen in the Senate. In reducing numerous, difficult, and illegible amendments into the text the Secretary may, with the most innocent intentions, commit errors which can never again be corrected.

In the House of Representatives the Clerk and not the Speaker or Chairman of the Committee of the Whole reads bills on second reading. After the second reading, which is in full, the bill is open to amendment. Clause 1, Rule XXI, as explained in § 831, governs first and second readings of bills in the House and in Committee of the Whole.

§ 429. Test of strength on engrossment after amendment.

The bill being now as perfect as its friends can make it, this is the proper stage for those fundamentally opposed to make their first attack. All attempts at earlier periods are with disjointed efforts, because many who do not expect to be in favor of the bill ultimately, are willing to let it go on to its perfect state, to take time to examine it themselves and to hear what can be said for it, knowing that after all they will have sufficient opportunities of giving it their veto. Its two last stages, therefore, are reserved for this—that is to say, on the question whether it shall be engrossed and read a third time, and, lastly, whether it shall pass. The first of these is usually the most interesting contest, because then the whole subject is new and engaging, and the minds of the Members having not yet been declared by any trying vote the issue is the more doubtful. In this stage, therefore, is the main trial of strength between its friends and opponents, and it behooves everyone to make up his mind decisively for this question, or he loses the main battle; and accident and management may, and often do, prevent a successful rallying on the next and last question, whether it shall pass.

§ 430. Test of strength on a bill before amending.

In the House of Representatives there are two other means of testing strength—one by raising the question of consideration when the bill first comes up (Rule XVI, clause 3), and the other by moving to strike out the enacting words when it is first open to amendment (Rule XXIII, clause 7). By these methods an adverse opinion may be expressed without permitting the bill to consume the time of the House.

§ 431. Endorsement of the title on an engrossed bill.

When the bill is engrossed the title is to be indorsed on the back, and not within the bill. *Hakew, 250.*

In the practice of the House of Representatives and the Senate the title appears in its proper place in the engrossed bill, and also is endorsed, with the number, on the back.

SEC. XXXII.—READING PAPERS.

§ 432. Parliamentary law as to the reading of papers.

Where papers are laid before the House or referred to a committee every Member has a right to have them once read at the table before he can be compelled to vote on them; but it is a great though common error to suppose that he has a right, *toties quoties,* to have acts, journals, accounts, or papers on the table read independently of the will of the House. The delay and interruption which this might be made to produce evince the impossibility of the existence of such a right. There is, indeed, so manifest a propriety of permitting every Member to have as much information as possible on every question on which he is to vote, that when he desires the reading, if it be seen that it is really for information and not for delay, the Speaker directs it to be read without putting a question, if no one objects; but if objected to, a question must be put. *2 Hats., 117, 118.*

The House, by Rule XXX, has made provision as to reading a paper other than that on which the House is called to give a final vote.

§ 433. Papers not necessarily to be read on plea of privilege.

It is equally an error to suppose that any Member has a right, without a question put, to lay a book or paper on the table, and have it read, on suggesting that it contains matter infringing on the privileges of the House. *Ib.*

§ 434. Member not always privileged to read a paper in his place.

For the same reason a Member has not a right to read a paper in his place, if it be objected to, without leave of the House. But this rigor is never exercised but where there is an intentional or gross abuse of the time and patience of the House.

A Member has not a right even to read his own speech, committed to writing, without leave. This also is to prevent an abuse of time, and therefore is not refused but where that is intended. *2 Grey, 227.*

§ 435. Reports of committees not read except on order or in debate.

A report of a committee of the Senate on a bill from the House of Representatives being under consideration: on motion that the report of the committee of the House of Representatives on the same bill be read in the Senate, it passed in the negative. *Feb. 28, 1793.*

In the House of Representatives ordinary reports are read only in time of debate (V, 5292), and subject to the authority of the House (V, 5293). But in a few cases, where a report does not accompany a bill or other proposition of action, but presents facts and conclusions, it is read to the House if acted on (II, 1364; IV, 4663).

§ 436. Reading of papers on reference.

Formerly, when papers were referred to a committee, they used to be first read; but of late only the titles, unless a Member insists they shall be read, and then nobody can oppose it. *2 Hats., 117.*

In the House of Representatives under the rules petitions and communications are referred through the Clerk's desk, so that there is no opportunity for reading before reference (Rule XXII, clause 1; Rule XXIV, clause 2). These rules do not apply to Presidents' messages, however.

SEC. XXXIII.—PRIVILEGED QUESTIONS.

§ 437. Possession of a bill by the House.

It is no possession of a bill unless it be delivered to the Clerk to read, or the Speaker reads the title. *Lex. Parl., 274; Elysynge Mem., 85; Ord. House of Commons, 64.*

§ 438. Theory as to privileged questions.

It is a general rule that the question first moved and seconded shall be first put. *Scob., 28, 22; 2 Hats., 81.* But this rule gives way to what may be called privileged questions; and the privileged questions are of different grades among themselves.

In the House of Representatives, by rule and practice the system of privileged motions and privileged questions has been highly developed (Rules IX, XI, clause 4, XVI, clause 4; XXIV, clause 1).

§ 439. Precedence of the motion to adjourn.

A motion to adjourn simply takes place of all others; for otherwise the House might be kept sitting against its will, and indefinitely. Yet this motion can not be received after another question is actually put and while the House is engaged in voting.

The rules and practice of the House of Representatives have prescribed comprehensively the privilege and status of the motion to adjourn (Rule XVI, clause 4). The motion intervenes between the putting of the question and the voting, and also between the different methods of voting, as between a vote by division and a vote by yeas and nays, as after the yeas and nays are ordered and before the roll call begins (V, 5366). But after the roll call begins it may not be interrupted (V, 6053): Rule XVI, clause 4 was amended in the 93d Congress to provide that a motion that when the House adjourns on that day it stand adjourned to meet at a day and time certain shall be of equal privilege with the motion to adjourn, if the Speaker in his discretion recognizes for that purpose (H. Res. 6, pp. 26–27).

§ 440. Obsolete parliamentary law governing orders of the day.

Orders of the day take place of all other questions, except for adjournment—that is to say, the question which is the subject of an order is made a privileged one, *pro hac vice.* The order is a repeal of the general rule as to this special case. When any Member moves, therefore, for the order of the day to be read, no further debate is permitted on the question which was before the House; for if the debate might proceed it might continue through the day and defeat the order. This motion, to entitle it to precedence, must be for the orders generally, and not for any particular one; and if it be carried on the question, "Whether the House will now proceed to the orders of the day?" they must be read and proceeded on in the course in which they stand, *2 Hats., 83;* for priority of order gives priority of right, which can not be taken away but by another special order.

"Orders of the day," in the technical sense, have disappeared from the practice of the House (IV, 3057) although in one of the rules a mention of them has survived (Rule XXIV, clause 1). "Special orders," which are used for bringing up matters not regularly in order, are based on a theory entirely different from that of the orders of the day, which were a part of the regular and daily order of business (IV, 3151).

§ 441. Jefferson's discussion of certain privileged motions.

After these there are other privileged questions, which will require considerable explanation.

It is proper that every parliamentary assembly should have certain forms of questions, so adapted as to enable them fitly to dispose of every proposition which can be made to them. Such are: 1. The previous question. 2. To postpone indefinitely. 3. To adjourn a question to a definite day. 4. To lie on the table. 5. To commit. 6. To amend. The proper occasion for each of these questions should be understood.

The House of Representatives by Rule XVI, clause 4, has established the priority and other conditions of motions of this kind.

§ 442. Obsolete use of the previous question.

1. When a proposition is moved which it is useless or inexpedient now to express or discuss, the previous question has been introduced for suppressing for that time the motion and its discussion. *3 Hats., 188, 189.*

The previous question of the parliamentary law has been changed by the House of Representatives into an instrument of entirely different use (V, 5445; Rule XVII).

§ 443. The motion to postpone indefinitely.

2. But as the previous question gets rid of it only for that day, and the same proposition may recur the next day, if they wish to suppress it for the whole of that session, they postpone it indefinitely. *3 Hats., 183.* This quashes the proposition for that session, as an indefinite adjournment is a dissolution, or the continuance of a suit *sine die* is a discontinuance of it.

As already explained, in the House of Representatives the previous question is no longer used as a method of postponement (V, 5445) but a means to bring the pending matter to an immediate vote. The House does use the motion to postpone indefinitely, and in Rule XVI, clause 4, and the practice thereunder, has defined the nature and use of the motion.

§ 444. Postponement to a day certain.

3. When a motion is made which it will be proper to act on, but information is wanted, or something more pressing

claims the present time, the question or debate is adjourned to such a day within the session as will answer the views of the House. *2 Hats., 81.* And those who have spoken before may not speak again when the adjourned debate is resumed. *2 Hats., 73.* Sometimes, however, this has been abusively used by adjourning it to a day beyond the session, to get rid of it altogether as would be done by an indefinite postponement.

The House of Representatives does not use the motion to adjourn a debate. But it accomplishes the purpose of such a procedure by the motion to postpone to a day certain, which applies, not to a debate, but to the bill or other proposition before the House. Of course, if a bill which is under debate is postponed, the effect is to postpone the debate. The conditions and use of the motion are treated under Rule XVI, clause 4.

§ 445. Motion to lay on the table.

4. When the House has something else which claims its present attention, but would be willing to reserve in their power to take up a proposition whenever it shall suit them, they order it to lie on their table. It may then be called for at any time.

This is the use of the motion to lay on the table which is established in the general parliamentary law, and was followed in the early practice of the House of Representatives. But by an interesting evolution in the House the motion has now come to serve an entirely new purpose, being used for the final, adverse disposition of a matter (Rule XVI, clause 4; V, 5389). And a matter once laid on the table may be taken therefrom only by suspension of the rules (V, 6288) or similar process, unless it be a matter of privilege (V, 5438, 5439) such as bills vetoed by the President (IV, 3549; V, 5439). A proposition to impeach having been laid on the table, a similar or identical proposition may be again brought up (III, 2049; VI, 541).

§ 116. Delegation of consideration to committee.

5. If the proposition will want more amendment and digestion than the formalities of the House will conveniently admit, they refer it to a committee.

6. But if the proposition be well digested, and may need but few and simple amendments, and especially if these be of leading consequence, they then proceed to consider and amend it themselves.

In the House of Representatives it is a general rule that all business goes to committees before receiving consideration in the House itself. Occasionally a question of privilege or a minor matter of business is presented and considered at once by the House.

§ 117. Privileged motions in the Senate and in Parliament.

The Senate, in their practice, vary from this regular graduation of forms. Their practice comparatively with that of Parliament stands thus:

FOR THE PARLIAMENTARY:	THE SENATE USES:
Postponement indefinite,	Postponement to a day beyond the session.
Adjournment,	Postponement to a day within the session.
Lying on table,	Postponement indefinite. Lying on the table.

In their eighth rule, therefore, which declares that while a question is before the Senate no motion shall be received, unless it be for the previous question, or to postpone, commit, or amend the main question, the term postponement must be understood according to their broad use of it, and not in its parliamentary sense. Their rule, then, establishes as privileged questions the previous question, postponement, commitment, and amendment.

The House of Representatives governs these motions by Rule XVI, clause 4.

§ 418. Obsolete provision as to priority of privileged motions.

But it may be asked: Have these questions any privilege among themselves? or are they so equal that the common principle of the "first moved first put" takes place among them? This will need explanation. Their competitions may be as follows:

1. Previous question and postpone
   commit
   amend
2. Postpone and previous question
   commit
   amend
3. Commit and previous question
   postpone
   amend
4. Amend and previous question
   postpone
   commit

In the first, second, and third classes, and the first member of the fourth class, the rule "first moved first put" takes place.

In the first class, where the previous question is first moved, the effect is peculiar; for it not only prevents the after motion to postpone or commit from being put to question before it, but also from being put after it; for if the previous question be decided affirmatively, to wit, that the main question shall *now* be put, it would of course be against the decision to postpone or commit; and if it be decided negatively, to wit, that the main question shall not now be put, this puts the House out of possession of the main question, and consequently there is nothing before them to postpone or commit. So that neither voting for nor against the previous question will enable the advocates for postponing or committing to get at their object. Whether it may be amended shall be examined hereafter.

While Rule XVI, clause 4, now governs the priority of motions, these provisions of the Manual remain of interest because of the parliamentary theory they present.

§ 449. General principles of priority of motions.

Second class. If postponement be decided affirmatively, the proposition is removed from before the House, and consequently there is no ground for the previous question, commitment or amendment; but if decided negatively (that it shall not be postponed), the main question may then be suppressed by the previous question, or may be committed, or amended.

The previous question is used now for bringing a vote on the main question and not for suppressing it.

The third class is subject to the same observations as the second.

The fourth class. Amendment of the main question first moved, and afterwards the previous question, the question of amendment shall be first put.

In present practice of the House the question on the previous question would be put first, and being decided affirmatively would force a vote on the amendment and then on the main question.

Amendment and postponement competing, postponement is first put, as the equivalent proposition to adjourn the main question would be in Parliament. The reason is that the question for amendment is not suppressed by postponing or adjourning the main question, but remains before the House whenever the main question is resumed; and it might be that the occasion for other urgent business might go by, and be lost by length of debate on the amendment, if the House had it not in their power to postpone the whole subject.

Amendment and commitment. The question for committing, though last moved shall be first put; because, in truth, it facilitates and befriends the motion to amend. *Scobell* is express: "On motion to amend a bill, anyone may notwithstanding move to commit it, and the question for commitment shall be first put." *Scob., 46.*

These principles of priority of privileged motions are recognized in the House of Representatives, and are provided for by Rule XVI, clause 4.

§ 450. Applications of the previous question to debatable secondary and privileged motions.

We have hitherto considered the case of two or more of the privileged questions contending for privilege between themselves, when both are moved on the original or main question;

but now let us suppose one of them to be moved, not on the original primary question, but on the secondary one, *e.g.:*

Suppose a motion to postpone, commit, or amend the main question, and that it be moved to suppress that motion by putting a previous question on it. This is not allowed, because it would embarrass questions too much to allow them to be piled on one another several stories high; and the same result may be had in a more simple way—by deciding against the postponement, commitment, or amendment. *2. Hats., 81, 2, 3, 4.*

While the general principle that one secondary or privileged motion should not be applied to another is generally recognized in the House of Representatives, yet the entire change in the nature of the previous question (V, 5445) from a means of postponing a matter to a means of compelling an immediate vote, makes obsolete the parliamentary rule. For as the motions to postpone, commit, and amend, are all debatable, the modern previous question of course applies to them (Rule XVII, clause 1).

§ 451. Motion to postpone not applicable to other secondary motions.

Suppose a motion for the previous question, or commitment or amendment of the main question, and that it be then moved to postpone the motion for the previous question, or for commitment or amendment of the main question. 1. It would be absurd to postpone the previous question, commitment, or amendment, alone, and thus separate the appendage from its principal; yet it must be postponed separately from its original, if at all; because the eighth rule of the Senate says that when a main question is before the House no motion shall be received but to commit, amend, or pre-question the original question, which is the parliamentary doctrine also. Therefore the motion to postpone the secondary motion for the previous question, or for committing or amending, can not be received. 2. This is a piling of questions one on another; which, to avoid embarrassment, is not allowed. 3. The same result may be had more simply by voting against the previous question, commitment, or amendment.

Suppose a commitment moved of a motion for the previous question, or to postpone or amend. The first, second, and third reasons, before stated, all hold against this.

The principles of this paragraph are in harmony with the practice of the House of Representatives, which provides further that a motion to suspend the rules may not be postponed (V, 5322).

§ 452. The motion to amend not applicable to the previous question.

Suppose an amendment moved to a motion for the previous question. Answer: The previous question can not be amended. Parliamentary usage, as well as the ninth rule of the Senate, has fixed its form to be, "Shall the main question be now put?"—i.e., at this instant; and as the present instant is but one, it can admit of no modification. To change it to to-morrow, or any other moment, is without example and without utility.

* * *

Although the nature of the previous question has entirely changed, yet the principle of the parliamentary law applies to the new form.

§ 453. Motion to amend applicable to motions to postpone or refer.

* * * But suppose a motion to amend a motion for postponement, as to one day instead of another, or to a special instead of an indefinite time. The useful character of amendment gives it a privilege of attaching itself to a secondary and privileged motion; that is, we may amend a postponement of a main question. So, we may amend a commitment of a main question, as by adding, for example, "with instructions to inquire," &c. * * *

This principle is recognized in the practice of the House of Representatives (V, 5521).

§ 454. Amendment in the third degree not in order.

* * * In like manner, if an amendment be moved to an amendment, it is admitted; but it would not be admitted in another degree, to wit, to amend an amendment to an amendment of a main question. This would lead to too much embarrassment. The line must be drawn somewhere, and usage has drawn it after the amendment to the amendment. The same result must be sought by deciding against the amendment to the amendment, and then moving it again as it was wished to be amended. In this form it becomes only an amendment to an amendment.

This rule of the parliamentary law is considered fundamental in the House of Representatives (Rule XIX).

§ 455. Filling blanks; and amendment to numbers.

[In filling a blank with a sum, the largest sum shall be first put to the question, by the thirteenth rule of the Senate, contrary to the rule of Parliament, which privileges the smallest sum and longest time. *5 Grey, 179; 2 Hats., 8, 83; 3 Hats., 132, 133.*] And this is considered to be not in the form of an amendment to the question, but as alternative or successive originals. In all cases of time or number, we must consider whether the larger comprehends the lesser, as in a question to what day a postponement shall be, the number of a committee, amount of a fine, term of an imprisonment, term of irredeemability of a loan, or the terminus in quem in any other case; then the question must begin a maximo. Or whether the lesser includes the greater, as in questions on the limitation of the rate of interest, on what day the session shall be closed by adjournment, on what day the next shall commence, when an act shall commence or the terminus a quo in any other case where the question must begin a minimo; the object being not to begin at that extreme which, and more, being within every man's wish, no one could negative it, and yet, if he should vote in the affirmative, every question for more would be precluded; but at that extreme which would unite few, and then to advance or recede till you get to a number which will unite a bare majority. *3 Grey, 376, 384, 385.* "The fair question in this case is not that to which, and more, all will agree, but whether there shall be addition to the question." *1 Grey, 365.*

The Thirteenth Rule of the Senate has been dropped. The House of Representatives has no rule on the subject other than this provision of the parliamentary law. It is very rare for the House to fill blanks for numbers. When a number in pending text is to be changed by amendment, the practice of the House permits to be pending: the alternative number proposed in the amendment to the text; a second alternative number as an amendment to the amendment; a third as a substitute; and a fourth as an amendment to the substitute. Thus, if the pending text itself states a number, then five alternative numbers may be pending simultaneously. With respect to a concurrent resolution on the budget (which is considered as read and open to amendment at any point and to which amendments must be mathematically consistent under clause 8, Rule XXIII), adoption of a perfecting amendment changing several figures precludes further amendment merely changing those figures, but does not preclude more comprehensive amendments changing other portions of the resolution which have not been amended as well (Apr. 27, 1977, p. 12485).

§ 456. Priority of amendments over motions to strike out or agree.

Another exception to the rule of priority is when a motion has been made to strike out, or agree to, a paragraph. Motions to amend it are to be put to the question before a vote is taken on striking out or agreeing to the whole paragraph.

In the House of Representatives the principle that a text should be perfected before a question is taken on striking it out, and that an amendment should be perfected before agreeing to it, is well established. But in considering bills, even by paragraphs, the House does not agree to the paragraphs severally; but after amending one passes to the next, and the question on agreeing is taken only on the whole bill by the several votes on engrossment and passage.

§ 457. Incidental questions, like points of order, which intervene during consideration of the main question.

But there are several questions which, being incidental to every one, will take place of every one, privileged or not; to wit, a question of order arising out of any other question must be decided before that question. *2 Hats., 88.*

This principle governs the procedure of the House of Representatives, but a question of order arising after a motion for the previous question must be decided without debate (Rule XVII, clause 3.)

§ 458. Matters of privilege as intervening questions.

A matter of privilege arising out of any question, or from a quarrel between two Members, or any other cause, supersedes the consideration of the original question, and must be first disposed of. *2 Hats., 88.*

Rule IX of the House of Representatives and the practice thereunder, confirm and amplify the principles of this provision of the parliamentary law.

§ 459. Intervention of questions relating to reading of papers.

Reading papers relative to the question before the House. This question must be put before the principal one. *2 Hats., 88.*

This provision is applicable in the House of Representatives so far as it concerns papers other than those on which the House is called on to give a final vote. The House has treated it more fully in Rule XXX and the practice thereunder.

§ 460. Withdrawal of motions.

Leave asked to withdraw a motion. The rule of Parliament being that a motion made and seconded is in the possession of the House, and can not be withdrawn without leave, the very terms of the rule imply that leave may be given, and, consequently, may be asked and put to the question.

The House of Representatives does not vote on the withdrawal of motions; but provides by Rules XVI, clause 2, and XXIII, clause 5, the conditions under which a Member may of his own right withdraw a motion.

SEC. XXXIV.—THE PREVIOUS QUESTION.

§ 461. The previous question of Parliament.

When any question is before the House, any Member may move a previous question, "Whether that question (called the main question) shall now be put?" If it pass in the affirmative, then the main question is to be put immediately, and no man may speak anything further to it, either to add or alter. *Memor. in Hakew., 28; 4 Grey, 27.*

§ 462. Manner of putting the previous question.

The previous question being moved and seconded, the question from the Chair shall be, "Shall the main question be now put?" and if the nays prevail, the main question shall not then be put.

In the modern practice of the House of Representatives the previous question is put as follows: "The gentleman from —— demands the previous question. As many as are in favor of ordering the previous question will say aye; as many as are opposed will say no" (V, 5443).

§ 463. History, use etc., of the previous question of Parliament.

This kind of question is understood by Mr. Hatsell to have been introduced in 1604. *2 Hats., 80.* Sir Henry Vane introduced it. *2 Grey, 113, 114; 3 Grey, 384.* When the question was put in this form, "Shall the main question be put?" a determination in the negative suppressed the main question during the session; but since the words "now put" are used, they exclude it for the present only; formerly, indeed, only till the present debate was over, *4 Grey, 43,* but now for that day and no longer. *2 Grey, 113, 114.*

Before the question "Whether the main question shall now be put?" any person might formerly have spoken to the main question, because otherwise he would be precluded from speaking to it at all. *Mem. in Hakew., 28.*

The proper occasion for the previous question is when a subject is brought forward of a delicate nature as to high personages, &c., or the discussion of which may call forth observations which might be of injurious consequences. Then the previous question is proposed, and in the modern usage the discussion of the main question is suspended and the debate confined to the previous question. The use of it has been extended abusively to other cases, but in these it has been an embarrassing procedure. Its uses would be as well answered by other more simple parliamentary forms, and therefore it should not be favored, but restricted within as narrow limits as possible.

As explained in connection with Rule XVII, the House of Representatives has changed entirely the old use of the previous question (V, 5445).

SEC. XXXV.—AMENDMENTS.

§ 465. Right of the Member who has spoken to the main question to speak to an amendment.

On an amendment being moved, a Member who had spoken to the main question may speak again to the amendment. *Scob., 23.*

This parliamentary rule applies in the House of Representatives, where the hour rule of debate (Rule XIV, clause 2) has been in force for many years. A member who has spoken an hour to the main question, may speak another hour to an amendment (V, 4994; VIII, 2449).

§ 466. The Speaker not to decide as to consistency of a proposed amendment with one already agreed to.

If an amendment be proposed inconsistent with one already agreed to, it is a fit ground for its rejection by the House, but not within the competence of the Speaker to suppress as if it were against order. For were he permitted to draw questions of consistence within the vortex or order, he might usurp a negative on important modifications, and suppress, instead of subserving, the legislative will.

The practice of the House of Representatives follows and extends the principle set forth by Jefferson. Thus it has been held that the fact that a proposed amendment is inconsistent with the text or embodies a proposition already voted (II, 1328–1336; VIII, 2834), or would in effect change a provision of text to which both Houses have agreed (II, 1335; V, 6183–6185), or is contained in substance in a later portion of the bill (II, 1327), is a matter to be passed on by the House rather than by the Speaker. It is for the House rather than the Speaker to decide on the legislative or legal effect of a proposition (II, 1323, 1324; VI, 254; VII, 2112; VIII, 2280, 2841); and the change of a single word in the text of a proposition may be sufficient to prevent the Speaker ruling it out of order as one already disposed of by the House (II, 1274). The principle has been the subject of conflicting decisions, from which may be deduced the rule that the Chair may not rule out the proposition unless it presents a substantially identical proposition (VI, 256; VIII, 2834, 2835, 2838, 2840, 2842, 2850, 2856).

A perfecting amendment offered to an amendment in the nature of a substitute may be offered again as an amendment to the original bill if the amendment is first rejected or if the amendment in the nature of a substitute as perfected is rejected (Sept. 28, 1976, p. 33075). Rejection of an amendment consisting of two sections does not preclude one of those sections being subsequently offered as a separate amendment (July 15, 1981, p. 15898–9). A point of order against an amendment to a substitute does not lie merely because its adoption would have the same effect as the adoption of a pending amendment to the original amendment and would render the substitute as amended identical to the original amendment as amended (May 4, 1983, p. ——).

§ 467. The parliamentary law and the rules of the House as to germane amendments.

Amendments may be made so as totally to alter the nature of the proposition; and it is a way of getting rid of a proposition by making it bear a sense different from what it was intended by the movers, so that they vote against it themselves. *2 Hats., 79; 4, 82, 84.* A new bill may be ingrafted, by way of amendment, on the words, "Be it enacted," etc. *1 Grey, 190, 192.*

This was the rule of Parliament, which did not require an amendment to be germane (V, 5802, 5825). But the House of Representatives from its first organization, has by rule required that an amendment should be germane to the pending proposition (Rule XVI, clause 7).

§ 468. The amendment to strike out certain words of a bill.

If it be proposed to amend by leaving out certain words, it may be moved, as an amendment to this amendment, to leave out a part of the words of the amendment, which is equivalent to leaving them in the bill. *2 Hats., 80, 9.* The parliamentary question is, always, whether the words shall stand part of the bill.

In the House of Representatives the question herein described is never put as in Parliament, but is always, whether the words shall be stricken out; and if there is a desire that certain of the words included in the amendment remain part of the bill, it is expressed, not by amending the amendment, but by a preferential perfecting amendment to strike from the specified words in the text of the bill a portion of them. If this is carried that portion of the specified words is stricken from the bill and the vote then recurs on the original amendment (V, 5770). Where a motion to strike an entire title of a bill is pending, it is in order to offer, as a perfecting amendment to that title, a motion to strike out a lesser portion thereof, and the perfecting amendment is voted on first (June 11, 1975, p. 18435). And when a motion to strike out certain words is disagreed to, it is in order to move to strike out a portion of those words (V, 5769); but when it is proposed to strike out certain words in a paragraph, it is not in order to amend those words by including with them other words of paragraph (V, 5768; VIII, 2848; June 2, 1976, pp. 16208–10). It is in order to insert by way of amendment a paragraph similar (but not actually identical) to one already stricken out by amendment (V, 5760; Sept. 2, 1976, pp. 28939–58).

§ 469. Principles as to perfecting before inserting or striking out.

When it is proposed to amend by inserting a paragraph, or part of one, the friends of the paragraph may make it as perfect as they can by amendments before the question is put for inserting it. If it be received, it cannot be amended afterward in the same stage, because the House has, on a vote, agreed to it in that form. In like manner, if it is proposed to amend by striking out a paragraph, the friends of the paragraph are first to make it as perfect as they can by amendments,

before the question is put for striking it out. If on the question it be retained, it cannot be amended afterward, because a vote against striking out is equivalent to a vote agreeing to it in that form.

These principles are recognized as in force in the House of Representatives, with the exception that Rule XVI, clause 7, specifically provides that "a motion to strike out being lost shall neither preclude amendments nor a motion to strike out and insert." But after an amendment to insert has been agreed to, the matter inserted ordinarily may not then be amended (V, 5761-5763; VIII, 2852) in any way that would change its text; but an amendment may be added at the end (V, 5759, 5764, 5765; Dec. 14, 1973, p. 41740; Oct. 1, 1974, p. 33364), even if the perfecting amendment which was adopted struck out all after the short title of the amendment in the nature of a substitute and inserted a new text (May 16, 1979, p. 11480). While an amendment which has been adopted to an amendment (in the nature of a substitute) may not be further amended, another amendment adding language at the end of the amendment may still be offered (June 10, 1976, pp. 17368-75, 17381; Procedure ch. 27, Secs. 27.4 and 27.9; May 16, 1984, p. ——), and the Chair will not rule on the consistency of that language with the adopted amendment (June 10, 1976, p. 17381). While it may be in order to offer an amendment to the pending portion of the bill which not only changes a provision already amended but also changes an unamended pending portion of the bill, it is not in order merely to amend portions of the bill which have been changed by amendment, or to amend unamended portions which have been passed in the reading and are no longer open to amendment (July 12, 1983, p. ——). When it is proposed to perfect a paragraph the motions to insert the paragraph, or strike it out, if already pending, must remain in abeyance until the amendments to perfect have been moved and voted on (V, 5758; VIII, 2860); and while amendments are pending to a section a motion to strike it out may not be offered (V, 5771; VIII, 2861). While a motion to strike out is pending, it is in order to offer an amendment to perfect the language proposed to be stricken; such an amendment, which is in the first degree, may be amended by a substitute, and amendments to the substitute are also in order (Oct. 19, 1983, p. ——), and such perfecting amendment, if agreed to when voted on first, remains part of the bill if the motion to strike is then rejected (Sept. 18, 1986, p. ——). When a motion to strike out a paragraph is pending and the paragraph is perfected by an amendment, striking and inserting an entire new text, the pending motion to strike out must fall, since it would not be in order to strike out exactly what has been just voted to insert (V, 5792; VIII, 2854; July 12, 1951, p. 8090; Sept. 23, 1975, p. 29835; Aug. 5, 1986, p. ——; May 18, 1988, p. ——). A motion to strike out and insert a portion of a pending section is not in order as a substitute for a motion to strike out the section, but may be offered as a perfecting amendment to the section and is voted on first, subject to being eliminated by subsequent adoption of the motion to strike out (July 16, 1981, p. 16057). A motion to strike out an entire subsection of a bill is not a proper substitute for a perfecting amendment to the subsection, since it is broader in scope, but may be offered after disposition of the perfecting amendment (Sept. 23, 1982, p. 24963).

§ 470. Reading the motion and putting the question on a motion to strike out and insert.

When it is moved to amend by striking out certain words and inserting others, the manner of stating the question is first to read the whole passage to be amended as it stands at present, then the words proposed to be struck out, next those to be inserted, and lastly the whole passage as it will be when amended. And the question, if desired, is then to be divided, and put first on striking out. If carried, it is next on inserting the words proposed. If that be lost, it may be moved to insert others. *2 Hats., 80, 7.*

Rule XVI, clause 7, of the House of Representatives provides specifically that the motion to strike out and insert shall not be divided. Otherwise, as to the manner of stating the question, it is usual for the clerk to read only the words to be stricken out and the words to be inserted. Usually this is sufficient, as the Members may have before them printed copies of the bill under consideration.

§ 471. Conditions of repetition of motions to strike out and insert.

A motion is made to amend by striking out certain words and inserting others in their place, which is negatived. Then it is moved to strike out the same words, and to insert others of a tenor entirely different from those first proposed. It is negatived. Then it is moved to strike out the same words and insert nothing, which is agreed to. All this is admissible, because to strike out and insert A is one proposition. To strike out and insert B is a different proposition. And to strike out and insert nothing is still different. And the rejection of one proposition does not preclude the offering a different one. Nor would it change the case were the first motion divided by putting the question first on striking out, and that negatived; for, as putting the whole motion to the question at once would not have precluded, the putting the half of it cannot do it.

As to Jefferson's supposition that the principle would hold good in case of division of the motion to strike out and insert it is not necessary to inquire, since Rule XVI, clause 7, of the House of Representatives forbids division of the motion. In a footnote Jefferson expressed himself as follows: "In the case of a division of the question, and a decision against striking out, I advanced doubtingly the opinion here expressed. I find no authority either way, and I know it may be viewed under a different aspect. It may be thought that, having decided separately not to strike out the passage, the same question for striking out cannot be put over again, though with a view to a different insertion. Still I think it more reasonable and convenient to consider the striking out and insertion as forming one proposition, but should readily yield to any evidence that the contrary is the practice in Parliament."

§ 472. Application of the motion to strike out.

The principle set forth by Jefferson as to repetition of the motion to strike out prevails in the House of Representatives, where it has been held in order, after the failure of a motion to strike out certain words, to move to strike out a portion of those words (V, 5769; VIII, 2858). When a bill is under consideration by paragraphs, a motion to strike out applies only to the paragraph under consideration (V, 5774).

§ 473. Effect of affirmative vote on motion to strike out and insert.

But if it had been carried affirmatively to strike out the words and to insert A, it could not afterward be permitted to strike out A and insert B. The mover of B should have notified, while the insertion of A was under debate, that he would move to insert B; in which case those who preferred it would join in rejecting A.

This principle controls the practice of the House of Representatives (July 17, 1985, p. 19444; July 18, 1985, p. 19649).

§ 474. Conditions of striking out an amendment already agreed to.

After A is inserted, however, it may be moved to strike out a portion of the original paragraph, comprehending A, provided the coherence to be struck out be so substantial as to make this effectively a different proposition; for then it is resolved into the common case of striking out a paragraph after amending it. Nor does anything forbid a new insertion, instead of A and its coherence.

While it is not in order to move to strike a provision inserted by amendment (Oct. 9, 1985, p. 26957), a motion to strike more than that provision inserted would be in order (Apr. 23, 1975, p. 11536). But an amendment to strike out the pending title of a bill and re-insert all sections of that title except one is not in order where that section has previously been amended in its entirety (Aug. 1, 1975, p. 26946).

§ 475. Amendments filling blanks as to time.

In Senate, January 25, 1798, a motion to postpone until the second Tuesday in February some amendments proposed to the Constitution; the words "until the second Tuesday in February" were struck out by way of amendment. Then it was moved to add, "until the first day of June." Objected that it was not in order, as the question should be first put on the longest time; therefore, after a shorter time decided against, a longer cannot be put to question. It was answered that this rule takes place only in filling blanks for time. But when a specific time stands part of a motion, that may be struck out as well as any other part of the motion; and when struck out, a motion may be received to insert any other. In fact, it is not until they are struck out, and a blank for the time thereby produced, that the rule can begin to operate, by receiving all the propositions for different times, and putting the questions successively on the longest. Otherwise it would be in the power of the mover by inserting originally a short time, to preclude the possibility of a longer; for till the short time is struck out, you cannot insert a longer; and if, after it is struck out, you cannot do it, then it cannot be done at all. Suppose the first motion had been made to amend by striking out "the second Tuesday in February," and inserting instead thereof "the first of June," it would have been regular, then, to divide the question, by proposing first the question to strike out, and then that to insert. Now, this is precisely the effect of the present proceeding; only, instead of one motion and two questions, there are two motions and two questions to effect it—the motion being divided as well as the question.

The principles of this paragraph have been followed in the House of Representatives (V, 5763; Aug. 16, 1961, pp. 16059-60), but in one case wherein words embodying a distinct substantive proposition had been agreed to as an amendment to a paragraph, it was held not in order to strike out a part of the words of this amendment with other words of the paragraph (V, 5766).

The motion to strike out and insert may not be divided in the House of Representatives (Rule XVI, clause 7).

§ 476. Joining and dividing bills.

When the matter contained in two bills might be better put into one, the manner is to reject the one and incorporate its matter into another bill by way of amendment. So if the matter of one bill would be better distributed into two, any part may be struck out by way of amendment, and put into a new bill. * * *

In the modern practice of the House of Representatives each bill comes before the House by itself; and if it were proposed to join one bill to another it would be done by offering the text of the one as an amendment to the other, without disturbing the first bill in its place on the calendar. Where it is proposed to divide a bill, the object is accomplished in the House of Representatives by moving to recommit with instructions to the committee to report two bills (V, 5527, 5528).

§ 477. Transposition of the sections of a bill.

* * * If a section is to be transposed, a question must be put on striking it out where it stands and another for inserting it in the place desired.

This principle is followed in the practice of the House of Representatives (V, 5775, 5776).

§ 478. Filling blanks left by the other House.

A bill passed by the one House with blanks. These may be filled up by the other by way of amendments, returned to the first as such, and passed *3 Hats., 83.*

§ 479. Clerk amends the section numbers of a bill.

The number prefixed to the section of a bill, be merely a marginal indication, and no part of the text of the bill, the Clerk regulates that—the House or committee is only to amend the text.

In the modern practice of the House, section numbers and other internal references are considered as part of the text which may be altered by amendment. The House sometimes authorizes the Clerk to make appropriate changes in section numbers, paragraphs and punctuation, and cross references when preparing the engrossment of the bill. Such a request is properly made in the House, following passage of the bill (Apr. 29, 1969, p. 10753).

SEC. XXXVI.—DIVISION OF THE QUESTION.

§ 480. Parliamentary law for division of the question.

If a question contain more parts than one, it may be divided into two or more questions. *Mem. in Hakew., 29.* But not as the right of an individual member, but with the consent of the House. For who is to decide whether a question is complicated or not—where it is complicated—into how many propositions it may be divided? The fact is, that the only mode of separating a complicated question is by moving amendments to it; and these must be decided by the House, on a question, unless the House orders it to be divided; as, on the question, December 2, 1640, making void the election of the knights for Worcester, on a motion it was resolved to make two questions of it, to wit, one on each knight. *2 Hats., 85, 86.* So, wherever there are several names in a question, they may be divided and put one by one. *9 Grey, 444.* So, 1729, April 17, on an objection that a question was complicated, it was separated by amendment. *2 Hats., 79.*

The House of Representatives, by Rule XVI, clause 6, and the practice thereunder, has entitled a procedure differing materially from that above set forth. While a resolution electing Members to committees is not divisible (clause 6, Rule XVI), other types of resolutions containing several names may be divided for voting (March 19, 1975, p. 7344).

§ 481. Jefferson's discussion of division of the question.

The soundness of these observations will be evident from the embarrassments produced by the XVIIIth rule of the Senate, which says, "if the question in debate contains several points, any member may have the same divided."

1798, May 30, the alien bill in quasi-committee. To a section and proviso in the original, had been added two new provisos by way of amendment. On a motion to strike out the section as amended, the question was desired to be divided. To do this it must be put first on striking out either the former proviso, or some distinct member of the section. But when nothing remains but the last member of the section and the provisos, they cannot be divided so as to put the last member to question by itself, for the provisos might thus be left standing alone as exceptions to a rule when the rule is taken away; or the new provisos might be left to a second question, after having been decided on once before at the same reading, which is contrary to rule. But the question must be on striking out the last member of the section as amended. This sweeps away the exceptions with the rule, and relieves from inconsistence. A question to be divisible must comprehend points so distinct and entire that one of them being taken away, the other may stand entire. But a proviso or exception, without an enacting clause, does not contain an entire point or proposition.

May 31.—The same bill being before the Senate. There was a proviso that the bill should not extend—1. To any foreign minister; nor, 2. To any person to whom the President should give a passport; nor, 3. To any alien merchant conforming himself to such regulations as the President shall prescribe; and a division of the question into its simplest elements was called for. It was divided into four parts, the 4th taking in the words "conforming himself," &c. It was objected that the words "any alien merchant," could not be separated from their modifying words, "conforming," &c., because these words, if left by themselves, contain no substantive idea, will make no sense. But admitting that the divisions of a paragraph into separate questions must be so made as that each part may stand by itself, yet the House having, on the question, retained the two first divisions, the words "any alien merchant" may be struck out, and their modifying words will then attach themselves to the preceding description of persons, and become a modification of that description.

§ 482. Division of question as related to debate or amendment.

When a question is divided, after the question on the 1st member, the 2d is open to debate and amendment; because it is a known rule that a person may rise and speak at any time before the question has been completely decided, by putting the negative as well as the affirmative side. But the question is not completely put when the vote has been taken on the first member only. One-half the question, both affirmative and negative, remains still to be put. See *Execut. Jour., June 25, 1795.* The same decision by President Adams.

Where a division of the question is demanded on a portion of an amendment, the Chair puts the question first on the remaining portions of the amendment, and that portion on which the division is demanded remains open for further debate and amendment (Oct. 21, 1981, p. 24785).

SEC. XXXVII.—COEXISTING QUESTIONS.

§ 483. Fundamental principles as to coexisting questions.

It may be asked whether the House can be in possession of two motions or propositions at the same time? so that, one of them being decided, the other goes to question without being moved anew? The answer must be special. When a question is interrupted by a vote of adjournment, it is thereby removed from before the House, and does not stand ipso facto before them at their next meeting, but must come forward in the usual way. So, when it is interrupted by the order of the day. Such other privileged questions also as dispose of the main question (e.g., the previous question, postponement, or commitment), remove it from before the House. But it is only suspended by a motion to amend, to withdraw, to read papers, or by a question of order or privilege, and stands again before the House when these are decided. None but the class of privileged questions can be brought forward while there is another question before the House, the rule being that when a motion has been made and seconded, no other can be received except it be a privileged one.

The principles of this provision must, of course, be viewed in the light of a more highly perfected order of business than existed in Jefferson's time (Rule XXIV). The motion to withdraw is not known in the practice of the House, not being among the motions enumerated in Rule XVI, clause 4, but a motion before the House may be withdrawn by the mover thereof before a decision is reached (Rule XVI, clause 2).

SEC. XXXVIII.—EQUIVALENT QUESTIONS.

§ 484. Former practice as to rejection and second reading of bills.

If, on a question for rejection, a bill be retained, it passes, of course, to its next reading. *Hakew., 141; Scob., 42.* And a question for a second reading, determined negatively, is a rejection without further question. *4 Grey, 149.* And see *Elsynge's Memor., 42,* in what case questions are to be taken for rejection.

The House of Representatives has abandoned the question "Shall the bill be rejected?" (IV, 3391), and the question is now taken in accordance with Rule XXI, clause 1. A vote is not taken on the second reading, the first test coming in the modern practice of the House on the engrossment and third reading.

§ 485. Equivalent questions in general.

Where questions are perfectly equivalent, so that the negative of the one amounts to the affirmative of the other, and leaves no other alternative, the decision of the one concludes necessarily the other. *4 Grey, 157.* Thus the negative of striking out amounts to the affirmative of agreeing; and therefore to put a question on agreeing after that on striking out, would be to put the same question in effect twice over. Not so in questions of amendments between the two Houses. A motion to recede being negatived, does not amount to a positive vote to insist, because there is another alternative, to wit, to adhere.

The principles set forth in this paragraph are recognized by the practice of the House of Representatives; but Jefferson's use of the motion to strike out as an illustration is no longer justified, since the practice of the House under Rule XVI, clause 7, does not permit the negative of the motion to strike out to be equivalent to the affirmative of agreeing.

§ 486. Equivalent questions on amendments between the Houses.

A bill originating in one House is passed by the other with an amendment. A motion in the originating House to agree to the amendment is negatived. Does there result from this a vote of disagreement, or must the question on disagreement be expressly voted? The question respecting amendments from another House are—1st, to agree; 2d, disagree; 3d, recede; 4th, insist; 5th, adhere.

In the House of Representatives and the Senate the order of precedence of motions is as given in the Parliamentary law, and the motions take precedence in that order without regard to the order in which they are moved (V, 6270, 6324). But a motion to amend an amendment of the other House has precedence of the motion to agree or disagree either before the stage of disagreement has been reached or after the House has receded from its disagreement (V, 6164, 6169-6171; VIII, 3203) even after the previous question has been ordered on both motions before the question is divided (Feb. 12, 1923, p. 3512). See also the discussion in § 525. But it has been held that when the previous question has been demanded or ordered on a motion to concur, a motion to amend is not in order (V, 5488). The motion to refer also takes precedence of the motions to agree or disagree (V, 6172-6174), but the demanding or ordering of the previous question does not prevent a motion to refer (V, 5575). The motion to refer takes precedence of the motions to agree or disagree and, under clause 1, Rule XVII, is in order pending a demand for or after the ordering of the previous question, before the stage of disagreement has been reached (V, 6172-6174, 5575) but not after the stage of disagreement when the most preferential motion tending to bring the two Houses together is already pending (Speaker Albert, Sept. 16, 1976, pp. 30887-8).

§ 487. The motions to agree and disagree as related to motions to amend.

1st. To agree; 2d. To disagree.—Either of these concludes the other necessarily, for the positive of either is exactly the equivalent to the negative of the other, and no other alternative remains. On either motion amendments to the amendment may be proposed; e.g., if it be moved to disagree, those who are for the amendment have a right to propose amendments, and to make it as perfect as they can, before the question of disagreeing is put.

3d. To recede.—You may then either insist or adhere.

§ 488. No equivalent questions on motions to recede, insist, and adhere.

4th. To insist.—You may then either recede or adhere.

5th. To adhere.—You may then either recede or insist.

Consequently the negative of these is not equivalent to a positive vote the other way. It does not raise so necessary an implication as may authorize the Secretary by inference to enter another vote; for two alternatives still remain, either of which may be adopted by the House.

Under the earlier practice in the House it was held that voting down the motion to recede and concur was tantamount to insistence but not the equivalent of adherence (Speaker Clark, July 2, 1918, p. 8648). But the more recent practice is that when the House disagrees to a motion to recede and concur in a Senate amendment some further action must be taken to dispose of the amendment (Speaker Bankhead, July 9, 1937, p. 7007; Speaker McCormack, Sept. 19, 1962, p. 19945) and the question may recur on a pending motion to insist or such a motion is then entertained from the floor.

SEC. XXXIX.—THE QUESTION.

§ 489. Putting the question.

The question is to be put first on the affirmative, and then on the negative side.

Rule I, clause 5, of the House of Representatives, provides more fully for putting the question.

§ 490. Effect of putting the question in ending debate.

After the Speaker has put the affirmative part of the question, any Member who has not spoken before to the question may rise and speak before the negative be put; because it is no full question till the negative part be put. *Scob., 23; 2 Hats., 73.*

§ 491. Informal putting of the question.

But in small matters, and which are of course, such as receiving petitions, reports, withdrawing motions, reading papers, &c., the Speaker most commonly supposes the consent of the House where no objection is expressed, and does not give them the trouble of putting the question formally. *Scob., 22; 2 Hats., 79, 2, 87; 5 Grey, 129; 9 Grey, 301.*

SEC. XL.—BILLS, THIRD READING.

§ 492. Obsolete requirements as to reading and passage of bills.

To prevent bills from being passed by surprise, the House, by a standing order, directs that they shall not be put on their passage before a fixed hour, naming one at which the house is commonly full. *Hakew., 153.*

The usage of the Senate is not to put bills on their passage till noon.

A bill reported and passed to the third reading, cannot on that day be read the third time and passed; because this would be to pass on two readings in the same day.

§ 493. Obsolete parliamentary law as to third reading.

At the third reading the Clerk reads the bill and delivers it to the Speaker, who states the title, that it is the third time of reading the bill, and that the question will be whether it shall pass. Formerly the Speaker, or those who prepared a bill, prepared also a breviate or summary statement of its contents, which the Speaker read when he declared the state of the bill, at the several readings. Sometimes, however, he read the bill itself, especially on its passage. *Hakew., 136, 137, 153; Coke, 22, 115.* Latterly, instead of this, he, at the third reading, states the whole contents of the bill verbatim, only, instead of reading the formal parts, "Be it enacted," &c., he states that "preamble recites so and so—the 1st section enacts that, &c.; the 2d section enacts," &c.

But in the Senate of the United States, both of these formalities are dispensed with; the breviate presenting but an imperfect view of the bill, and being capable of being made to present a false one; and the full statement being a useless waste of time, immediately after a full reading by the Clerk, and especially as every member has a printed copy in his hand.

None of the restrictions is of effect in the modern practice of the House of Representatives. Rule XXI, clause 1, permits a bill to be read a third time and passed on the same day, and it is in order to proceed with a bill at any time, unless the absence of a quorum be shown.

In the House of Representatives there is no practice justifying the presentation of a breviated summary; and the procedure on third reading is definitely prescribed by Rule XXI, clause 1.

§ 494. Committal of a bill on third reading.

A bill on the third reading is not to be committed for the matter or body thereof, but to receive some particular clause or proviso, it hath been sometimes suffered, but as a thing very unusual. *Hakew., 156.* Thus, *27 El., 1584,* a bill was committed on the third reading, having been formerly committed on the second, but is declared not usual. *D'Ewes, 337, col. 2; 414, col. 2.*

In the House of Representatives it is in order to commit a bill after the engrossment and third reading where the previous question is not ordered (V, 5562); and by Rule XVII, clause 1, and Rule XVI, clause 4, the House has preserved this opportunity to commit even after the previous question has been ordered.

§ 495. Obsolete parliamentary practice as to riders.

When an essential provision has been omitted, rather than erase the bill and render it suspicious, they add a clause on a separate paper, engrossed and called a rider, which is read and put to the question three times. *Elsynge's Memo., 59; 6 Grey, 335; 1 Blackst., 183.* For examples of riders, see *3 Hats., 121, 122, 124, 156.* Every one is at liberty to bring in a rider without asking leave. *10 Grey, 52.*

This practice is never followed in the House of Representatives.

§ 496. Obsolete requirements as to reading of amendments.

It is laid down, as a general rule, that amendments proposed at the second reading shall be twice read, and those proposed at the third reading thrice read; as also all amendments from the other House. *Town., col. 19, 23, 24, 25, 26, 27, 28.*

In the practice of the House of Representatives amendments, whether offered in the House or coming from the other House, do not come under the rule requiring different readings.

§ 497. Amendments before the third reading.

It is with great and almost invincible reluctance that amendments are admitted at this reading, which occasion erasures or interlineations. Sometimes a proviso has been cut off from a bill; sometimes erased. *9 Grey, 513.*

This is the proper stage for filling up blanks; for if filled up before, and now altered by erasure, it would be peculiarly unsafe.

In the House of Representatives bills are amended after the second reading (IV, 3392), and before the engrossment and third reading (V, 5781; VII, 1051, 1052) but not afterwards.

§ 498. Debate in relation to the third reading.

At this reading the bill is debated afresh, and for the most part is more spoken to at this time than on any of the former readings. *Hakew., 153.*

The debate on the question whether it should be read a third time, has discovered to its friends and opponents the arguments on which each side relies, and which of these appear to have influence with the House; they have had time to meet them with new arguments, and to put their old ones into new shapes. The former vote has tried the strength of the first opinion, and furnished grounds to estimate the issue; and the question now offered for its passage is the last occasion which is ever to be offered for carrying or rejecting it.

In the House of Representatives it is usual to debate a bill before and not after the engrossment and third reading, probably because of the frequent use of the previous question, which prevents all debate after it is ordered. When the previous question is not ordered, debate may occur pending the vote on the passage.

§ 499. Putting the question on the passage of a bill.

When the debate is ended, the Speaker, holding the bill in his hand, puts the question for its passage, by saying, "Gentlemen, all you who are of opinion that this bill shall pass, say aye;" and after the answer of the ayes, "All those of the contrary opinion, say no." *Hakew., 154.*

In the House of Representatives the bill is usually in the hands of the Clerk. The Speaker states that "The question is on the passage of the bill," and puts the question in the form prescribed by Rule I, clause 5.

§ 500. Bills not altered after their passage.

After the bill is passed, there can be no further alteration of it in any point. *Hakew., 159.*

This principle controls the practice of the House of Representatives. However, a bill may be changed if the votes on the passage and engrossment have been reconsidered, and the Clerk may be authorized to make changes in the engrossed copy, by unanimous consent.

SEC. XLI.—DIVISION OF THE HOUSE.

§ 501. Division of the House after determination by sound.

The affirmative and negative of the question having been both put and answered, the Speaker declares whether the yeas or nays have it by the sound, if he be himself satisfied, and it stands as the judgment of the House. But if he be not himself satisfied which voice is the greater, or if before any other Member comes into the House, or before any new motion made (for it is too late after that), any Member shall arise and declare himself dissatisfied with the Speaker's decision, then the Speaker is to divide the House. *Scob., 24; 2 Hats., 140.*

This practice is provided for in different language by Rule I, clause 5.

§ 502. Parliamentary provisions as to division, not applicable in the House.

When the House of Commons is divided, the one party goes forth, and the other remains in the House. This has made it important which go forth and which remain; because the latter gain all the indolent, the indifferent, and inattentive. Their general rule, therefore, is that those who give their vote for the preservation of the orders of the House shall stay in, and those who are for introducing any new matter or alteration, or proceeding contrary to the established course, are to go out. But this rule is subject to many exceptions and modifications. *2 Hats., 134; 1 Rush., p. 3, fol. 92; Scob., 43, 52; Co., 12, 116; D'Ewes, 505, col. 1; Mem. in Hakew., 25, 29.*

The one party being gone forth, the Speaker names two tellers from the affirmative and two from the negative side, who first count those sitting in the House and report the number to the Speaker. Then they place themselves within the door, two on each side, and count those who went forth as they come in and report the number to the Speaker. *Mem. in Hakew., 26.*

In the House of Representatives a vote may be taken "by tellers" in a procedure that is perhaps comparable to that described above. When the Chair names tellers, they take their place at the rear of the center aisle and Members pass up the aisle between them to be counted. Clause 5 of Rule I also provides a procedure for taking a "recorded vote" by means of the electronic voting system when seconded by one-fifth of a quorum.

§ 503. Correction of a vote by tellers after the report.

A mistake in the report of the tellers may be rectified after the report made. *2 Hats., 145, note.*

* * * * *

§ 504. Voting by yeas and nays.

When it is proposed to take the vote by yeas and nays, the President or Speaker states that "the question is whether, e.g., the bill shall pass—that it is proposed that the yeas and nays shall be entered on the journal. Those, therefore, who desire it will rise." If he finds and declares that one-fifth have risen, he then states that "those who are of opinion that the bill shall pass are to answer in the affirmative; those of the contrary opinion in the negative." The Clerk then calls over the names alphabetically, notes the yea or nay of each, and gives the list to the President or Speaker, who declares the result. In the Senate if there be an equal division the Secretary calls on the Vice-President and notes his affirmative or negative, which becomes the decision of the House.

In the House of Representatives tellers were sometimes, though rarely, ordered to determine whether one-fifth joined in the demand for the yeas and nays (V, 6045) but in the later practice the Speaker's count is not subject to verification (VIII, 3114–3118), and it is not in order to demand a rising vote of those opposed on a count by the Speaker to ascertain if one-fifth concur in demand for yeas and nays (VIII, 3112, 3113). Rule XV, clause 1 of the House provides the method for taking the yeas and nays in the modern practice; but under clause 5 of that rule, both the yeas and nays and calls of the House are taken by means of the electronic voting system unless the Speaker in his discretion orders the utilization of other prescribed procedures.

§ 505. Parliamentary law as to giving of votes.

In the House of Commons every member must give his vote the one way or the other, *Scob., 24,* as it is not permitted to anyone to withdraw who is in the House when the question is put, nor is anyone to be told in the division who was not in when the question was put. *2 Hats., 140.*

This last position is always true when the vote is by yeas and nays; where the negative as well as affirmative of the question is stated by the President at the same time, and the vote of both sides begins and proceeds pari passu. It is true also when the question is put in the usual way, if the negative has also been put; but if it has not, the member entering, or any other member may speak, and even propose amendments, by which the debate may be opened again, and the question be greatly deferred. And as some who have answered aye may have been changed by the new arguments, the affirmative must be put over gain. If, then, the member entering may, by speaking a few words, occasion a repetition of a question, it would be useless to deny it on his simple call for it.

Rule VIII, clause 1, of the House of Representatives requires Members to vote; but no rule excludes from voting those not present at the putting of the question, and this requirement of the parliamentary law is not observed in the House. No attempt is made to prevent Members from withdrawing after a question is put, unless there be a question as to a quorum, when the House proceeds under Rule XV, clause 2, 4.

§ 506. Movements of Members during voting.

While the House is telling, no member may speak or move out of his place, for if any mistake be suspected it must be told again. *Mem. in Hakew., 26; 2 Hats., 143.*

This rule applies in the House of Representatives on a vote by division, where the Speaker counts; but not to a vote by tellers, where Members pass up the aisle between the tellers to be counted.

§ 507. Decisions of points of order during a division.

If any difficulty arises in point of order during the division, the Speaker is to decide peremptorily, subject to the future censure of the House if irregular. He sometimes permits old experienced members to assist him with their advice, which they do sitting in their seats, covered, to avoid the appearance of debate; but this can only be with the Speaker's leave, else the division might last several hours. *2 Hats., 143.*

Representatives no longer sit with their hats on (Rule XIV, clause 7) and always rise to speak; respectfully addressing their remarks to "Mr. Speaker" (Rule XIV, clause 1).

§ 508. Decision by voice of majority; and tie votes.

The voice of the majority decides; for the *lex majoris partis* is the law of all councils, elections, &c., where not otherwise expressly provided. *Hakew., 93.* But if the House be equally divided, *semper presuamtur pro negante;* that is, the former law is not to be changed but by a majority. *Towns., col. 134.*

The House of Representatives provides also by rule (Rule I, clause 6) that in all cases of tie vote the question shall be lost.

§ 509. Two-thirds votes.

The House of Representatives, however, requires a two-thirds vote on a motion to suspend the rules (Rule XXVII, clause 1), on a motion to dispense with Calendar Wednesday (Rule XXIV, clause 7), on a motion to dispense with the call of the Private Calendar on the first Tuesday of each month (Rule XXIV, clause 6), and to consider a special rule immediately (Rule XI, clause 4(b)), and the Constitution of the United States requires two-thirds votes for the expulsion of a Member, passing vetoed bills, removing political disabilities, and passing resolutions proposing amendments to the Constitution.

§ 510. Business suspended by the failure of a quorum.

When from counting the House on a division it appears that there is not a quorum, the matter continues exactly in the state in which it was before the division, and must be resumed at that point on any future day. *2 Hats., 126.*

While under the rules first adopted in the 95th Congress it is not in order to make or entertain a point of no quorum unless the question has been put on the pending motion or proposition, if a quorum in fact does not respond on a call of the House or on a vote, even the most highly privileged business must terminate (IV, 2934; VI, 662) and even debate must stop until a quorum is established (see IV, 2935–2949). No motion is entertained in the absence of a quorum other than a motion relating to the call of the House or to adjourn (IV, 2950; VI, 680). Even in the closing hours of a Congress business has been stopped by the failure of a quorum (V, 6309; Oct. 18, 1972, pp. 37199-37200).

§511 Change of a vote.

1606, May 1, on a question whether a Member having said yea may afterwards sit and change his opinion, a precedent was remembered by the Speaker, of Mr. Morris, attorney of the wards, in *39 Eliz.*, who in like case changed his opinion. *Mem. in Hakew., 27.*

The House of Representatives is governed in this respect by the practice under Rule XV, clause 1.

SEC. XLII.—TITLES.

§512. Amendments to the title of a bill.

After the bill has passed, and not before, the title may be amended, and is to be fixed by a question; and the bill is then sent to the other House.

The House of Representatives by Rule XIX embodies this principle with an additional provision as to debate.

SEC. XLIII.—RECONSIDERATION.

§513. Early Senate practice as to reconsideration.

1798, Jan. A bill on its second reading being amended, and on the question whether it shall be read a third time negatived, was restored by a decision to reconsider that question. Here the votes of negative and reconsideration, like positive and negative quantities in equation, destroy one another, and are as if they were expunged from the journals. Consequently the bill is open for amendment, just so far as it was the moment preceding the question for the third reading; that is to say, all parts of the bill are open for amendment except those on which votes have been already taken in its present stage. So, also, it may be recommitted.

The rule permitting a reconsideration of a question affixing it to no limitation of time or circumstance, it may be asked whether there is no limitation? If, after the vote, the paper on which it is passed has been parted with, there can be no reconsideration, as if a vote has been for the passage of a bill and the bill has been sent to the other House. But where the paper remains, as on a bill rejected, when or under what circumstances does it cease to be susceptible of reconsideration? This remains to be settled, unless a sense that the right of reconsideration is a right to waste the time of the House in repeated agitations of the same question, so that it shall never know when a question is done with, should induce them to reform this anomalous proceeding.

The House of Representatives provides for reconsideration by Rule XVIII, clause 1.

§514. Parliamentary law as to reconsideration.

In Parliament a question once carried can not be questioned again at the same session, but must stand as the judgment of the House. *Towns., col. 67; Mem. in Hakew., 33.* * * *

§515. A bill once rejected not to be brought up again at the same session.

* * * And a bill once rejected, another of the same substance can not be brought in again the same session. *Hakew., 158; 6 Grey, 392.* But this does not extend to prevent putting the same question in different stages of a bill, because every stage of a bill submits the whole and every part of it to

the opinion of the House as open for amendment, either by insertion or omission, though the same amendment has been accepted or rejected in a former stage. So in reports of committees, *e.g.*, report of an address, the same question is before the House, and open for free discussion. *Towns., col. 26; 2 Hats., 98, 100, 101.* So orders of the House or instructions to committees may be discharged. So a bill, begun in one House and sent to the other and there rejected, may be renewed again in that other, passed, and sent back. *Ib., 92; 3 Hats., 161.* Or if, instead of being rejected, they read it once and lay it aside or amend it and put it off a month, they may order in another to the same effect, with the same or a different title. *Hakew., 97, 98.*

In the House of Representatives, with its rule for reconsideration, there is rarely, if ever, an attempt to bring forward a bill once rejected at the same session. An instance occurred in 1856, however (IV, 3384), and on March 9, 1910, page 2966, the House declined to consider a bill brought forward after a rejection. The Committee on Rules may report as privileged a resolution making in order the consideration of a measure of the same substance as one previously rejected and to rescind or vacate the action whereby the House had rejected a measure (Mar. 17, 1976, p. 6776; see VIII, 3391).

§516. Expedients for changing the effect of bills once passed.

Divers expedients are used to correct the effects of this rule, as, by passing an explanatory act, if anything has been omitted or ill expressed, *3 Hats., 278,* or an act to enforce and make more effectual an act, &c., or to rectify mistakes in an act, &c., or a committee on one bill may be instructed to receive a clause to rectify the mistakes of another. Thus, June 24, 1685, a clause was inserted in a bill for rectifying a mistake committed by a clerk in engrossing a bill of supply. *2 Hats., 194, 6.* Or the session may be closed for one, two, three, or more days and a new one commenced. But then all matters depending must be finished, or they fall, and are to begin de novo. *2 Hats., 94, 98.* Or a part of the subject may be taken up by another bill or taken up in a different way. *6 Grey, 304, 316.*

§517. Exceptions to the rule against bringing up a matter once rejected.

And in cases of the last magnitude this rule has not been so strictly and verbally observed as to stop indispensable proceedings altogether. *2 Hats., 92, 98.* Thus when the address on the preliminaries of peace in 1782 had been lost by a majority of one, on account of the importance of the question and smallness of the majority, the same question in substance, though with some words not in the first, and which might change the opinion of some Members, was brought on again and carried, as the motives for it were thought to outweigh the objection of form. *2 Hats, 99, 100.*

§518. Passage of supplementary bills.

A second bill may be passed to continue an act of the same session or to enlarge the time limited for its execution. *2 Hats., 95, 98.* This is not in contradiction to the first act.

The House of Representatives has by a joint resolution corrected an error in a bill that had gone to the President (IV, 3519).

SEC. XLIV.—BILLS SENT TO THE OTHER HOUSE.

§519. Laying on the table bills from the other House.

A bill from the other House is sometimes ordered to lie on the table. *2 Hats., 97.*

This principle is recognized in the practice of the House of Representatives, both as to Senate bills (IV, 3418, 3419; V, 5437), and as to House bills returned with Senate amendments (V, 5424, 6201–6203). The motion to lay on the table Senate amendments to a House bill does not take precedence over the motion to recede and concur, since the motion would table the entire bill (Speaker Longworth, Jan. 24, 1927, p. 2165), but the motion to lay on the table a motion to recede and concur in a Senate amendment does not carry the amendment and bill to the table, and other motions are in order to dispose of the Senate amendment (Feb. 22, 1978, p. 4072).

§520. Requests for information from the other House.

When bills passed in one House and sent to the other are ground on special facts requiring proof, it is usual, either by message or at a conference, to ask the grounds and evidence, and this evidence, whether arising out of papers or from the examination of witnesses, is immediately communicated. *3 Hats., 48.*

The Houses of Congress transmit with bills accompanying papers, which are returned when the bills pass or at final adjournment (V, 7259, footnote). Sometimes one House has asked, by resolution, for papers from the files of the other (V, 7263, 7264). Testimony is also requested (III, 1855).

SEC. XLV.—AMENDMENTS BETWEEN THE HOUSES.

§521. Parliamentary principles as to disagreeing, insisting, and adhering.

When either House, *e.g.,* the House of Commons, send a bill to the other, the other may pass it with amendments. The regular progression in this case is, that the Commons disagree to the amendment; the Lords insist on it; the Commons insist on their disagreement; the Lords adhere to their amendment; the Commons adhere to their disagreement. The term of insisting may be repeated as often as they choose to keep the question open. But the first adherence by either renders it necessary for the other to recede or adhere also; when the matter is usually suffered to fall. *10 Grey, 148.* Latterly, however, there are instances of their having gone to a second adherence. There must be an absolute conclusion of the subject somewhere, or otherwise transactions between the Houses would become endless. *3 Hats., 268, 270.* The term of insisting, we are told by Sir John Trevor, was then (1679) newly introduced into parliamentary usage by the Lords. *7 Grey, 94.* It was certainly a happy innovation, as it multiplies the opportunities of trying modifications which may bring the Houses to a concurrence. Either House, however, is free to pass over the term of insisting, and to adhere in the first instance; *10 Grey, 146;* but it is not respectful to the other. In the ordinary parliamentary course there are two free conferences, at least, before an adherence. *10 Grey, 147.*

The House of Representatives and the Senate follow the principles set forth in this paragraph of the parliamentary law, and sometimes dispose of differences without resorting to conferences (V, 6165).

§ 522. Insisting and adhering in the practice of the House.

Where both Houses insist and neither ask a conference or recede the bill fails (V, 6228). Also when both Houses adhere the bill fails (V, 6163, 6313, 6324, 6325) even though the difference may be over a very slight amendment (V, 6233–6240). In rare instances in Congress there has been immediate adherences on the first disagreement (V, 6303); but this does not preclude the granting of the request of the other House for a conference (V, 6241–6244). Sometimes the House recedes from its disagreement as to certain amendments and adheres as to others (V, 6229). One House having adhered, may at the next stage vote to further adhere (V, 6251). Sometimes also the House recedes from adherence (V, 6252, 6401) or reconsiders its action of adherence (V, 6253); after which it has agreed to the amendment with or without amendment (V, 6253, 6401).

§ 523. Parliamentary law as to receding.

Either House may recede from its amendment and agree to the bill; or recede from their disagreement to the amendment, and agree to the same absolutely, or with an amendment; for here the disagreement and receding destroy one another, and the subject stands as before the disagreement. *Elysnge, 23, 27; 9 Grey, 476.*

§ 524. Practice of the House as to receding from its own amendment to a bill of the other House.

In the practice of the two Houses of Congress the motion is to recede from the amendment without at the same time agreeing to the bill, for the bill has already been passed with the amendment, and receding from the amendment leaves the bill passed (V, 6312). But where the House has previously concurred in a Senate amendment with an amendment, the House does not by receding from its amendment agree to the Senate amendment, since the House may then (1) concur in the Senate amendment or (2) concur in the Senate amendment with another amendment (VIII, 3199; Oct. 12, 1977, pp. 33448–54). The House may not through one motion however, recede from its amendment with an amendment (V, 6212; see sec. 526, *infra*). A motion in the House to recede from a House amendment to a Senate amendment, and concur in the Senate amendment, is divisible (VIII, 3199). One House has receded from its own amendment after the other House had returned it concurred in with an amendment (V, 6226). But this has been held not sufficient to pass the bill without further action by House which has concurred with an amendment (VIII, 3177; June 26, 1984, p. ——).

Where one House has receded from an amendment, it may not at a subsequent stage recall its action in order to form a new basis for a conference (V, 6251). Sometimes one House has receded from its amendment although it had previously insisted and asked a conference which had been agreed to (V, 6319). After the Senate has amended a House amendment it is not proper for the House to recede from its amendment directly, but the Senate may recede from its amendment and then the House recede from its amendment (Speaker Reed, June 12, 1890, p. 5981). The motion to recede takes precedence over the motion to insist and ask a conference (V, 6270).

§ 525. Practice of the House as to receding from disagreement to amendment of the other House.

By receding from its disagreement to an amendment of the Senate the House does not thereby agree to it (V, 6215); but the Senate amendment is then open to amendment precisely as before the original disagreement (V, 6212–6214). The stage of disagreement having been reached, the motion to recede and concur takes precedence of the motion to recede and concur with an amendment (V, 6219–6223; VIII, 3198, 3200, 3202); but a motion to recede and concur is divisible (VIII, 3199) and being divided and the House having receded, a motion to amend has precedence of the motion to concur (V, 6209–6211; VIII, 3198), even after the previous question is ordered on both motions before being divided (Feb. 12, 1923, p. 3512).

The motion to recede and concur in a Senate amendment with an amendment takes precedence of a motion to insist further on the House's disagreement to the Senate amendment (V, 6224; VIII, 3204), and a motion to lay certain amendments on the table (Speaker Longworth, Jan. 24, 1927, p. 2165). It has been held that after the previous question has been moved on a motion to adhere, a motion to recede may not be made (V, 6310); and after the previous question is demanded or ordered on a motion to concur, a motion to amend is not in order (V, 5488); but where the previous question has been demanded on a motion to insist, a motion to recede and concur has been admitted (V, 6208, 6321a).

§ 526. One House not to recede from its own amendment with an amendment; or depart from form fixed by adherence.

But the House can not recede from or insist on its own amendment, with an amendment; for the same reason that it can not send to the other House an amendment to its own act after it has passed the act. They may modify an amendment from the other House by ingrafting an amendment on it, because they have never assented to it; but they can not amend their own amendment, because they have, on the question, passed it in that form. *9 Grey, 363; 10 Grey, 240.* In Senate, March 29, 1978. Nor where one House has adhered to their amendment, and the other agrees with an amendment, can the first House depart from the form which they have fixed by an adherence.

In the case of a money bill, the Lord's proposed amendments become, by delay, confessedly necessary. The Commons, however, refused them as infringing on their privilege as to money bills; but they offered themselves to add to the bill a proviso to the same effect, which had no coherence with the Lords' amendments; and urged that it was an expedient warranted by precedent, and not unparliamentary in a case become impracticable, and irremediable in any other way. *3 Hats., 256, 266, 270, 271.* But the Lords refused, and the bill was lost. *1 Chand., 288.* A like case, *1 Chand., 311.* * * *

In the House of Representatives it is a recognized principle that the House may not recede from its own amendments with an amendment (V, 6216–6218). The House may not amend its own amendment to a Senate amendment to a House bill (Mar. 16, 1934, p. 4685). However, the stage of disagreement having been reached on a House amendment to a Senate amendment to a House proposition, the House may first recede from its amendment and, having receded, may then concur in the Senate amendment with a different amendment without violating this paragraph (Speaker O'Neill, Oct. 12, 1977, pp. 33448–54).

§ 527. Text to which both Houses have agreed not to be changed.

* * * So the Commons resolved that it is unparliamentary to strike out, at a conference, anything in a bill which hath been agreed and passed by both Houses, *6 Grey, 274; 1 Chand., 312.*

The practice of the two Houses has confirmed this principle of the parliamentary law and established the rule that managers of a conference may not change the text to which both Houses have agreed (V, 6417, 6418, 6420; VIII, 3257), and either House alone may not, by instructions, empower the managers to make such change (V, 6388). In the earlier practice, when it was necessary to change the text already agreed to, the managers appended a supplementary paragraph to their report, and this was agreed to by unanimous consent in the two Houses (V, 6433–6436); but in the later practice it has been found a more effective method for the two Houses to agree to a concurrent resolution giving to the managers the necessary powers (V, 6437–6440). In the House such a resolution would be presented by unanimous consent (December 17, 1974, p. 40472), under suspension of the rules, or by report from the Committee on Rules.

The further principle has been established in practice of the House of Representatives that it may not, even by unanimous consent (V, 6179), change in the slightest particular (V, 6181) the text to which both Houses have agreed (V, 6180; VIII, 3257). And this prohibition extends, also, to a case wherein it is proposed to add a new section at the end of a bill which has passed both Houses. (V, 6182).

§ 528. Consideration of Senate and House amendments: Precedence of motions.

A motion to amend an amendment from the other House takes precedence of a motion to agree or disagree.

This is the rule of the House of Representatives where the stage of disagreement has not been reached (V, 6164, 6169–71; VIII, 3202), or when the House has receded from its disagreement to the amendment in question (VIII, 3196, 3197, 3203). The following discussion summarizes the precedence and consideration of motions to dispose of Senate or House amendments in contemporary practice.

CONSIDERATION OF SENATE OR HOUSE AMENDMENTS

When Senate amendments are before the House for the first time, or when the Senate has returned a bill with House amendments to which it has disagreed (and on which the House has not insisted), no privileged motion is in order in the House except a motion pursuant to clause 1 of Rule XX, made by direction of the committee with subject-matter jurisdiction, to disagree to the Senate amendments or insist on the House amendment and request or agree to a conference with the Senate (see Oct. 11, 1984, p. ——). Other motions to dispose of amendments between the Houses are not privileged until the stage of disagreement has been reached on a bill with amendments of the other House (IV, 3149, 3150; VI, 756; VIII, 3185, 3194). The stage of disagreement is not reached until the House has either disagreed to Senate amendments or has insisted on its own amendments to a Senate bill, and has notified the Senate. Further House action can only occur when the House has received the papers back from the Senate (Sept. 16, 1976, p. 30868).

Prior to the stage of disagreement, an amendment to a Senate amendment to a House passed measure on the Speaker's table is not in order until unanimous consent is granted for immediate consideration of the Senate amendment in the House (Speaker O'Neill, June 19, 1986, p. ——).

If the House does agree to consider a bill with Senate amendments before the stage of disagreement has been reached, by unanimous consent or special order, a motion to amend takes precedence over the motion to agree. However, the usual practice in such a situation is to consider a request, either by unanimous consent, suspension of the rules, or special order reported by the Committee on Rules, simultaneously providing for consideration and disposition of the Senate amendment (thus precluding the consideration of other requests to dispose of the amendment; see ch. 32, sec. 5 of Procedure for examples of such proposals to dispose of Senate amendments).

It should be noted that a small category of Senate amendments, those not requiring consideration in the Committee of the Whole, may be taken from the Speaker's table and disposed of by motion pursuant to clause 2 of Rule XXIV before the stage of disagreement has been reached, but the vast majority of legislation does affect the Treasury and require consideration in Committee of the Whole.

PRECEDENCE OF MOTIONS BEFORE THE STAGE OF DISAGREEMENT

Should the House consider Senate amendments before the stage of disagreement, the precedence of motions is as follows (disregarding the most privileged motion, to disagree and send to conference by direction of the committee): (1) to concur with an amendment or amendments; (2) to concur; (3) to disagree and request or agree to a conference; and (4) to disagree. With respect to consideration of House amendments before the stage of disagreement, the precedence of motions is (1) to recede; (2) to insist and request or agree to a conference; and (3) to insist. While the House may adhere, adherence is seldom utilized (since it precludes a conference unless receded from) and is extremely rare on first disagreement (see sec. 522, supra; see also the discussion of adherence in Procedure ch. 32, sec. 12.1). A motion to adhere is the least privileged motion.

It was formerly held that a motion to send to conference yielded to the simple motion to disagree, or to insist (see Cannon's Procedure in the House of Representatives, p. 120). In current practice, however, the compound motion to disagree to Senate amendments and request or agree to a conference, or to insist on House amendments and request or agree to a conference, has replaced the two-step procedure for getting to conference and, since it brings the two Houses together, takes precedence over simple motions to insist or disagree (or to adhere).

Notwithstanding the foregoing precedence of motions, the ordinary motions applicable to any question which is under debate—to table, to postpone to a day certain, and to refer—remain privileged under clause 4 of Rule XVI. A motion to table Senate amendments brings the bill to the table (V, 5424, 6201–03; Sept. 28, 1978, p. 32334). It must also be noted that before consideration of any motions to dispose of Senate amendments, the Speaker has the discretionary authority, under clause 2 of Rule XXIV, to refer such amendments to the appropriate committee, with or without a time limitation for committee consideration. It has been held that before the stage of disagreement, the motion to table the Senate amendment or amendments (V, 6201–03) or the motion to refer the Senate amendment or amendments (V, 5301, 6172, 6174) take precedence (in that order) over motions to amend, agree, or disagree. And if the previous question has been ordered on another motion to dispose of the Senate amendment, a motion to refer is in order (V, 5575).

REACHING THE STAGE OF DISAGREEMENT

The House has reached the stage of disagreement on a bill when it is again in possession of the papers thereon, having previously disagreed to Senate amendments or insisted on House amendments (with or without requesting or agreeing to a conference). Only previous insistence or disagreement by the House itself places the House in disagreement (and not merely disagreement, insistence, or amendment by the Senate). For example, where the House has concurred in a Senate amendment to a House bill with an amendment, insisted on the House amendment and requested a conference, and the Senate has then concurred in the House amendment with a further amendment, the matter is privileged for further disposition in the House since the House has communicated to the Senate its insistence and request for a conference (Sept. 16, 1976, p. 20868). Of course, if the Senate has agreed to a House request for a conference, the bill is committed to conference and motions are not in order for its disposition until after the conferees have reported (the House may unilaterally discharge its conferees and consider the bill, where in possession of the papers, only by unanimous consent and not by motion).

Once the stage of disagreement has been reached on a bill with amendments, the House remains in the stage of disagreement until the matter is finally disposed of and motions for its disposition are privileged whenever the House is in possession of the papers. This principle applies both where the stage of disagreement is reached without a conference, and where matters remain in disagreement after conferees have reported. It is possible, therefore, for motions to be privileged since the House is in disagreement on the bill, but for the House to have receded from its disagreement or insistence on a particular amendment or to have received a new Senate amendment for the first time. In those cases motions remain privileged, but the precedence of motions on the amendment in question reverts to the precedence of motions before the stage of disagreement (as set forth in sec. 528a, supra) (see discussion below of the effect of the House receding). The two Houses having permitted the amendment process to go beyond the second degree, a motion to concur in a Senate amendment (in the 4th degree), the stage of disagreement having been reached, is privileged if offered by any Member, but is subject to the motion to lay on the table (Mar. 18, 1986, p. ——).

PRECEDENCE OF MOTIONS AFTER THE STAGE OF DISAGREEMENT IS REACHED

Generally, after the stage of disagreement has been reached on a Senate amendment, the precedence of motions is as follows: (1) to recede and concur; (2) to recede and concur with an amendment or amendments; (3) to insist on disagreement and request a (further) conference; (4) to insist on disagreement; and (5) to adhere. The ordinary motion to table under clause 4 of Rule XVI may be applied to a Senate amendment, carries the bill to the table, and takes precedence over the foregoing motions (a motion to dispose of a Senate amendment may also be tabled, but such action does not table the amendment or bill—see Procedure ch. 32 § 7.6). With respect to the motion to refer (or recommit), a simple motion to refer or recommit only takes precedence over a motion to adhere, after the stage of disagreement has been reached on the bill. After the previous question is ordered on a pending motion to dispose of a Senate amendment, a motion to recommit (pursuant to clause 4 of Rule XVI or clause 1 of Rule XVII) may only be offered if it constitutes, in effect, a motion which takes precedence over the pending motion to dispose of a Senate amendment. Thus, after the stage of disagreement has been reached on a Senate amendment, a motion to recommit with instructions to report back forthwith with an amendment may not be offered after the previous question has been ordered on a motion to recede and concur, a motion of higher privilege (see Procedure ch. 23 § 12.8). But after the House has receded from disagreement to a Senate amendment, a motion to amend is preferential over a motion to agree, and thus after the previous question is ordered on a motion to concur, the House having already receded, a motion to recommit with instructions to amend would be in order (VIII, 2744). Motions to postpone, either to a day certain or indefinitely, may be presumed to have the lowest privilege with respect to a Senate amendment after the stage of disagreement has been reached. For old examples where the House postponed indefinitely consideration of Senate amendments, see V, 6199, 6200 (in the latter case the Senate had adhered).

Where the matter in question is a House amendment or amendments after the stage of disagreement has been reached, the precedence of motions is (1) to recede; (2) to further insist on the amendment and request a (further) conference; and (3) to adhere. For discussion of possible options of the House, having receded from its amendment or amendments, see sec. 524, supra, and Procedure ch. 32, sec. 10.1. If the House recedes from its amendment to a Senate bill, the bill is passed unless otherwise specified. If the House recedes from its amendment to a Senate amendment, the bill is not passed unless the House takes another step, either to concur in the Senate amendment or amend it. The House having receded from its amendment to a Senate amendment, it is no longer in disagreement on the amendment (although it is on the bill if the stage of disagreement has previously been reached), and the motion to amend the Senate amendment takes precedence over the motion to concur therein. Until the House recedes, however, a motion to recede from the House amendment and concur in the Senate amendment is preferential.

The same principle as to the precedence of motions after a division of the question applies to a motion to recede and concur in a Senate amendment, the stage of disagreement having been reached. While the motion to recede and concur takes precedence over the motion to recede and concur with an amendment, the former motion may be divided on the demand of any Member. If the House agrees to recede, a motion to concur with an amendment then takes precedence over the motion to concur, is considered as pending if part of the original motion, and is voted on first (Sept. 30, 1988, p. ——). As indicated in ch. 32, sec. 8 of Procedure, a Member offering a preferential motion does not thereby gain control of the debate, which remains in the control of the floor manager recognized to offer the original motion to dispose of amendments between the Houses (and which is divided equally between the majority and minority floor managers with respect to amendments reported from conference in disagreement under clause 2(b) of Rule XXVIII).

§ 529. Degree of amendments between the Houses.

A bill originating in one House is passed by the other with an amendment. The originating House agrees to their amendment with an amendment. The other may agree to their amendment with an amendment, that being only in the 2d and not the 3d degree; for, as to the amending House, the first amendment with which they passed the bill is a part of its text. It is the only text they have agreed to. The amendment to that text by the originating House therefore is only in the 1st degree, and the amendment to that again by the amending House is only in the 2d, to wit, an amendment to an amendment, and so admissible. Just so, when, on a bill from the originating House, the other, at its second reading, makes an amendment; on the third reading this amendment is become the text of the bill, and if an amendment to it be moved an amendment to that amendment may also be moved, as being only in the 2d degree.

This principle is followed in the practice of the House of Representatives (V, 6176, 6177, 6178).

SEC. XLVI.—CONFERENCES.

§ 530. Parliamentary law as to asking conferences.

It is on the occasion of amendments between the Houses that conferences are usually asked; but they may be asked in all cases of difference of opinion between the two Houses on matters depending between them. The request of a conference, however, must always be by the House which is possessed of the papers. *3 Hats., 31; 1 Grey, 425.*

The House of Representatives follows the principles set forth in this paragraph of the parliamentary law. A conference may be asked on only a portion of the amendments in disagreement, leaving the differences as to the remainder to be settled by the action of the two Houses themselves (V, 6401). In very rare instances conferences have been asked by one House after the other has absolutely rejected a main proposition (IV, 3442; V, 6258). A difference over an amendment to a proposed constitutional amendment may be committed to a conference (V, 7037).

§ 531. Conferences over matters other than differences as to amendments.

While conferences between the two Houses of Congress are usually held over differences as to amendments to bills, occasionally differences arise as to the respective prerogatives of the Houses (II, 1485–1495) or as to matters of procedures (V, 6401), as in impeachment proceedings (III, 2304), which are referred to conference. And in early and exceptional instances conferences have been asked as to legislative matters when no propositions relating thereto were pending (V, 6255–6257).

§ 532. Conferences by means of select committees.

In very rare cases, also, the Houses interchange views and come to conclusions by means of select committees appointed on the part of each House (I, 3). Thus, in 1821, a joint committee was chosen to consider and report to the two Houses whether or not it was expedient to provide for the admission of Missouri into the Union (IV, 4471), and in 1877 similar committees were appointed to devise a method for counting the electoral vote (III, 1953).

§ 533. Requests for conferences.

The parliamentary law provides that the request for a conference must always be by the House which is possessed of the papers (V, 8254). It was formerly the more regular practice for the House disagreeing to amendments of the other to leave the asking of a conference to that other House if it should decide to insist (V, 6278–6285, 6324); but it is so usual in the later practice for the House disagreeing to an amendment of the other to ask a conference that an omission to do so has even raised a question (V, 6273). Yet it can not be said that the practice requires a request for a conference to be made by the House disagreeing to the amendments of the other (V, 6274–6277). One House having asked a conference at one session, the other House may agree to the conference at the next session of the same Congress (V, 6286).

§ 534. Requests for conferences declined or neglected.

In rare instances one House has declined the request of the other for a conference (V, 6313–6315; March 20, 1951, p. 2683), sometimes accompanying it by adherence (V, 6313, 6315). In one instance, where the Senate declined a conference, it transmitted, by message, its reasons for so doing (V, 6313). Sometimes, also, one House disregards the request of the other for a conference and recedes from its disagreement, thereby rendering a conference unnecessary (V, 6316–6318). And in one case, where one House has asked a conference to which the other has assented, the asking House receded before the conference took place (V, 6319). Also, a bill returned to the House with a request for a conference has been postponed indefinitely (V, 6199).

§ 535. Motions to request conferences.

After the stage of disagreement has been reached, a motion to ask a conference is considered as distinct from motions to agree or disagree to amendments of the other House (V, 6268) and the motions to agree, recede, or insist are considered as preferential (V, 6269, 6270). Where a motion to request a conference at this stage has been rejected, its repetition at the same stage of the proceedings, no other motion to dispose of the matter in disagreement having been considered, has not been permitted (V, 6325). Where a conference results in disagreement, a motion to request a new conference is privileged (V, 6586). Sometimes disagreements are voted on by the House and conferences asked through the medium of special orders (IV, 3242–3249).

Before the stage of disagreement, any motion with respect to amendments between the two Houses is without privilege, except for motions with respect to the limited number of amendments which qualify under clause 2, Rule XXIV or motions under clause 1, Rule XX, to disagree to Senate amendments (or insist on House amendments) and to request or agree to an initial conference if the motion is authorized by the Committee which reported the bill and if the Speaker, in his discretion, recognizes for that purpose. A motion under the latter clause may be repeated, if again authorized by the committee concerned, and if the Speaker again agrees to recognize for that purpose, even though the House has once rejected a motion to send the same matter to conference (Speaker Albert, Oct. 3, 1972, pp. 33502-03).

§ 536. Managers of conferences.

While usual, it is not essential that one House, in asking a conference, transmit the names of its managers at the same time (V, 6405). The managers, properly so called (V, 6335), constitute practically two distinct committees, each of which acts by a majority (V, 6334). The Speaker appoints the managers on the part of the House (Rule X, clause 6(f)) and has discretion as to the number to serve on a given bill (V, 6336; VIII, 2193) but must appoint (1) a majority of Members who generally support the House position, as determined by the Speaker; (2) Members who are primarily responsible for the legislation; and (3) to the fullest extent feasible the principal proponents of the major provisions of the bill as it passed the House [Rule X, clause 6(f)]. While the practice used to be to appoint three managers from each house (V, 6336), in the absence of joint rules each House may appoint whatever number it sees fit (V, 6328-6330). The two Houses have frequently appointed a disparate number of managers (V, 6331-6333; VIII, 3221); and where the Senate appointed nine and the House but three, a motion to instruct the Speaker to appoint a greater number of managers on the part of the House was held out of order (VII, 2193). In appointing managers the Speaker usually consults the Member in charge of the bill (V, 6336); and where an amendment in disagreement falls within the jurisdiction of two committees of the House, the Speaker has named Members from both committees and specified the respective areas on which they were to confer (Speaker Albert, Nov. 30, 1971, p. 43422). In appointing conferees on the general appropriation bill, 1951, Speaker Rayburn appointed a set of managers for each chapter of the bill and four Members to sit on all chapters (Aug. 7, 1950, p. 11894). While the appointment of conferees, both as to their number and composition, is within the discretion of the Chair (Speaker Martin, July 8, 1947, p. 8469; Speaker Garner, June 24, 1932, p. 13876), and while a point of order will not lie against his exercise of this discretion (VIII, 2193, 3221), the Speaker normally takes into consideration the attitude of the majority and minority of the House on the disagreements in issue (V, 6336-6338; VIII, 3223), the varying views of the members of the House (V, 6339, 6340), and does not necessarily confine his appointments to members of the committee in charge of the bill (V, 6370). In one case, where the prerogatives of the House were involved, all of the managers were appointed to represent the majority opinion (V, 6338). See also § 701e, infra.

§ 537. Reappointment of, at second and subsequent conferences.

Where there were several conferences on a bill, it was the early practice to change the managers at each conference (V, 6288–6291, 6324), and so fixed was this practice that their reappointment had a special significance, indicating an unyielding temper (V, 6352–6368); but in the later practice it is the rule to reappoint managers (V, 6341–6344) unless a change be necessary to enable the sentiment of the House to be represented (V, 6369).

§ 538. Vacancies, etc., in managers of conferences.

Managers of a conference are excused from service only by authority of the House (V, 6373–6376; VIII, 3224, 3227); but the absence of a manager causes a vacancy which the Speaker fills by appointment (V, 6372; VIII, 3228). Where one House makes a change in its managers, it informs the other House, by message (V, 6377, 6378). According to the later practice the powers of managers who have not reported do not expire by reason of the termination of a session of Congress, unless it be the last session (V, 6260–6262).

§ 539. Parliamentary law as to free and simple conferences.

Conferences may be either simple or free. At a conference simply, written reasons are prepared by the House asking it, and they are read and delivered, without debate, to the managers of the other House at the conference, but are not then to be answered. *4 Grey, 144.* The other House then, if satisfied, vote the reasons satisfactory, or say nothing; if not satisfied they resolve then not satisfactory and ask a conference on the subject of the last conference, where they read and deliver, in like manner, written answer to those reasons. *3 Grey, 183.* They are meant chiefly to record the justification of each House to the nation at large and to posterity and in proof that the miscarriage of a necessary measure is not imputable to them. *3 Grey, 255.* At free conferences the managers discuss, viva voce and freely, and interchange propositions for such modifications as may be made in a parliamentary way, and may bring the sense of the two Houses together. * * *

§ 540. Free and simple conferences in modern practice.

This provision of the parliamentary law bears little relation to the modern practice of the two Houses of Congress, and that practice has evolved a new definition: "A free conference is that which leaves the committee of conference entirely free to pass upon any subject where the two branches have disagreed in their votes, not, however, including any action upon any subject where there has been a concurrent vote of both branches. A simple conference—perhaps it should more properly be termed a strict or a specific conference, though the parliamentary term is 'simple'—is that which confines the committee of conference to the specific instructions of the body appointing it" (V, 6403). And where the House had asked a free conference it was held not in order to instruct the managers (V, 6384). But it is very rare for the House in asking a conference to specify whether it shall be free or simple.

§ 541. Instruction of managers of a conference.

In their practice as to the instruction of managers of a conference the House of Representatives and the Senate do not agree. Only in rare instances has the Senate instructed (V, 6398), and these instances are at variance with its declaration, made after full consideration, that managers may not be instructed (V, 6397). And where the House has instructed its managers, the Senate sometimes has declined to participate and asked a free conference (V, 6402–6404). In the later practice the House does not inform the Senate when it instructs its managers (V, 6399), the Senate having objected to the transmittal of instructions by message (V, 6400, 6401). In one instance wherein the Senate learned indirectly that the House had instructed its managers it declared that the conference should be full and free, and instructed its own managers to withdraw if they should find the freedom of the conference impaired (V, 6406). But the House of Representatives holds to the opinion that the House may instruct its managers (V, 6379–6382), although the propriety of doing so at a first conference has been questioned (V, 6388, footnote). And in rare instances where a free conference is asked instruction is not in order (V, 6384). At a new conference the instructions of a former conference are not in force (V, 6383; VIII, 3240). And instructions may not direct the managers to do that which they might not otherwise do (V, 6386, 6387; VIII, 3235, 3244), as to effect a change in part of a bill not in disagreement (V, 6391–6394) or change the text to which both Houses have agreed (V, 6388). Although managers may disregard instructions, their report may not for that reason be ruled out of order (V, 6395; VIII, 3246; June 8, 1972, p. 20282), and when a conference report is recommitted with instructions the managers are not confined to the instructions alone (VIII, 3247). The motion to instruct managers should be offered after the vote to ask for or agree to a conference and before the managers are appointed (V, 6379-6382; VIII, 3233, 3240, 3256). The motion to instruct may be amended unless the previous question is ordered (V, 6525; VIII, 3231, 3240); thus a motion to instruct House conferees to agree to a numbered Senate amendment with an amendment may be amended, upon rejection of the previous question, to instruct the conferees to agree to the Senate amendment (June 9, 1982, pp. 13027, 13028, 13039, 13049). The motion to instruct may be laid on the table without carrying the bill to the table (VIII, 2658). The motion is debatable (see clause 1(b), Rule XXVIII) unless the previous question is ordered (VIII, 2675, 3240). After a motion to ask or agree to a conference is agreed to, only one valid motion to instruct is in order (VIII, 3236; Speaker Wright, Feb. 17, 1988, p. ——); but this restriction does not apply to a motion to instruct under clause 1(c) of Rule XXVIII (Aug. 22, 1935, pp. 14162-64).

A member of the minority is first entitled to recognition for a motion to instruct conferees (Speaker Bankhead, October 31, 1939, pp. 1103-05; Speaker Albert, October 18, 1971, pp. 36832-35), and where two minority members of the reporting committee seek recognition to offer a motion to instruct conferees prior to their appointment, the Chair will recognize the senior minority member of the committee (Oct. 10, 1986, p. ——; Speaker Wright, Feb. 17, 1988, p. ——). The ruling out of a motion to instruct conferees does not preclude the offering of a proper motion to instruct (VIII, 3235), but one motion to instruct having been considered and disposed of, further motions to instruct are not in order (VIII, 3236). Such additional instructions should have been offered as amendments to the original motion to instruct.

§ 542. Parliamentary law as to reports of managers of a conference.

* * * And each party report in writing to their respective Houses the substance of what is said on both sides, and it is entered in their journals. *9 Grey, 220; 3 Hats; 280.* This report can not be amended or altered, as that of a committee may be. *Journal Senate, May 24, 1796.*

§ 543. Forms of conference reports.

In the two Houses of Congress conference reports were originally merely suggestions for action and were neither identical in the two Houses nor acted on as a whole (V, 6468-6471). In the House of Representatives, Rule XXVIII provides that conference reports may be received at any time, except when the Journal is being read, while the roll is being called or the House is dividing. They are privileged on or after the third calendar day (excluding Saturdays, Sundays, or legal holidays) after they have been filed and printed in the Record, together with the accompanying statement (Rule XXVIII, clause 2). The early reports were not signed by the managers (IV, 3905); but in the later practice the signatures of the majority of the managers of each House is required (V, 6497–6502; VIII, 3295). Sometimes a manager indorses the report with a conditional approval or dissent (V, 6489–6496, 6538), but supplemental reports or minority views may not be filed in connection with conference reports (VIII, 3302). The name of an absent manager may not be affixed, but the two Houses by concurrent action may authorize him to sign the report after it has been acted on (V, 6488). The minority portion of the managers of a conference have no authority to make either a written or verbal report concerning the conference (V, 6406). In the later practice reports of managers are identical, and made in duplicate for the two Houses, the House managers signing first the report for their House and the Senate managers signing the other report first (V, 6323, 6426, 6499, 6500, 6504). Under certain circumstances managers may report an entirely new bill on a subject in disagreement, but this bill is acted on as part of the report (V, 6465–6467; *see also* Rule XXVIII, clause 3).

§ 544. Partial conference reports.

Managers may report an agreement as to a portion of the numbered amendments in disagreement, leaving the remainder to be disposed of by subsequent action (V, 6460–6464).

§ 545. Reports of inability to agree.

Where managers of a conference are unable to agree, or where a report is disagreed to in either House, another conference is usually asked (V, 6288–6291). When managers report that they have been unable to agree, the report is not acted on by the House of Representatives (V, 6562; VIII, 3329, Aug. 23, 1957, p. 15816). While under the earlier practice, when conferees reported in complete disagreement, the amendments in disagreement were considered available for immediate disposition (VIII, 3299, 3332), the current practice (as a result of the amendment to clause 2(b) of Rule XXVIII which became effective in the 93d Congress) is to require the matter to lay over until the third calendar day (excluding Saturdays, Sundays, or legal holidays) after the report in disagreement is filed and printed in the Record. In the earlier practice reports of inability to agree were made verbally or by unsigned written reports (V, 6563–6567); but in later practice they are written, in identical form, and signed by the managers of the two Houses (V, 6568, 6569).

§ 546. Managers restricted to the disagreements of the two Houses.

The managers of a conference must confine themselves to the differences committed to them (V, 6417, 6418; VIII, 3252, 3255, 3282), and may not include subjects not within the disagreements (V, 6407, 6408; VIII, 3253–3255, 3260, 3282, 3284), even though germane to a question in issue (V, 6419; VIII, 3256; Speaker Albert, Dec. 20, 1974, p. 41849). But they may perfect amendments committed to them if they do not in so doing go beyond the differences (V, 6409, 6413). Thus, where an amendment providing an appropriation to construct a road had been disagreed to, it was held in order to report a provision to provide for a survey for the road (V, 6425). Managers may not change the text to which both Houses have agreed (V, 6417, 6418, 6420, 6433–6436). But where the amendment in issue strikes out all of the bill after the enacting clause and substitutes a new text, the managers have the whole subject before them and may exercise a broad discretion as to details (V, 6424; VIII, 3266), and may even report an entirely new bill on the subject (V, 6421, 6423; VIII, 3248, 3263, 3265, 3276; *see also* § 913). Where the amendment in disagreement proposes a substitute differing greatly from the House provision they may eliminate the entire subject matter (Speaker Gillett, Sept. 14, 1922, p. 12598).

§ 547. Remedy where managers exceed their authority.

In the House of Representatives the Speaker may rule out a conference report if it be shown that the managers have exceeded their authority (V, 6409–6416; VIII, 3256; Oct. 4, 1962, pp. 22332–3). In the House points of order against reports are made or reserved after the report is read and before the reading of the statement (V, 6424, 6441; VIII, 3282, 3284, 3285, 3287), or consideration begins (V, 6903–6905; VIII, 3286), and comes too late after the report has been agreed to (V, 6442); and in case the statement is read in lieu of the report the point of order must be made or reserved before the statement is read (VIII, 3256, 3265, 3285, 3288, 3289). Where clause 2(c), Rule XXVIII applies, points of order must be made before debate begins on the report.

In the Senate under the former practice the Chair did not rule out conference reports, but the Senate itself expressed its opinion on the vote to agree to the report (V, 6426–6432) but on March 8, 1918, the Senate adopted a rule providing for a point of order against conferees inserting matter not committed to them or changing the text agreed to by both Houses and also providing for automatic recommitting of such report to the committee of conference in case the point of order is sustained. This rule of the Senate has been strictly construed (VIII, 3273, 3275).

§ 548. Meeting and action of managers.

Before the managers of a conference may report the other House must be notified of their appointment and a meeting must be held (V, 6458). Conferences are generally held in the Capitol, and formerly with closed doors, although in rare instances Members and others were admitted to make arguments (V, 6254, footnote, 6263). Rule XXVIII, clause 6, now provides for open conference meetings except where the House determines by rollcall vote that all or part of the meeting shall be closed to the public. The same rule now provides for a point of order in the House against the report and for an automatic request for a new conference if the House managers fail to meet in open session following appointment of the Senate conferees (Dec. 20, 1982, p. 32896). Rarely, also, papers in the nature of petitions have been referred to managers (V, 6263). The managers of the two Houses vote separately (V, 6336).

§ 549. Action on a conference report in the two Houses.

The report of the managers of a conference goes first to one House and then to the other, neither House acting until it is in possession of the papers, which means the original bill and amendments, as well as the report (V, 6322, 6518–6522, 6586; VIII, 3301). The report must be acted on as a whole, being agreed to or disagreed to as an entirety (V, 6472–6480, 6530–6533; VIII, 3304, 3305; Speaker Bankhead, Aug. 22, 1940, p. 10763; Speaker Albert, Nov. 10, 1971, pp. 40481–82); and until the report has been acted on no motion to deal with the individual amendments is in order (V, 6323, 6389, 6390; Speaker Rayburn, Mar. 16, 1942, pp. 2502–2504). While ordinarily reports are agreed to by majority vote, a two-thirds vote is required on a report relating to a constitutional amendment (V, 7036). Conference reports must be acted on in both Houses and in a case where the Senate had adopted a report which recommended that it recede from its amendments to a House Bill, the House rejected the report and then agreed to the Senate amendments (March 21, 1956, p. 5278). A conference report being made up but not acted on at the expiration of a Congress, the bill is lost (V, 6309). One House has, by message, reminded the other of its neglect to act on a conference report; but this was an occasion of criticism (V, 6309).

§ 550. Motions in order during action on a conference report.

When a conference report is presented, the question on agreeing is regarded as pending (V, 6517; VIII, 3300), and as the negative of it is equivalent to disagreement, the motion to disagree is not admitted (II, 1473; V, 6517; VIII, 3300). The reading of the amendments to which the report relates is not in order during its consideration (V, 5298). The report may not be amended on motion made in either House alone (V, 6534, 6535; VIII, 3306), but amendment is sometimes made by concurrent action of the two Houses (V, 6536, 6537; VIII, 3308). A motion to refer to a standing committee (V, 6558) or to lay on the table is not entertained in the House (V, 6538–6544); and a conference report may not be sent to Committee of the Whole on suggestion that it contains matter ordinarily requiring consideration in that committee (V, 6559–6561). It is in order on motion to recommit a conference report if the other body, by action on the report, have not discharged their managers (V, 6545–6553, 6609; VIII, 3310), and by concurrent action of the two Houses a report may be recommitted after one House had acted on it (VIII, 3308, 3316), but such a proposition would not be privileged in the House (V, 6554–6557; VIII, 3309).

A bill being recommitted to the committee of conference, no further action is taken by the House until it is again reported by the managers (VIII, 3326, 3327), and when reported is subject to another motion to recommit (VIII, 3325). Because instructions included in a motion to recommit a conference report are not binding, adoption of such a motion opens to further negotiation all issues committed to conference (Apr. 21, 1988, p.——).

§ 551. Effect of disagreement to a conference report.

When either House disagrees to a conference report the matter is left in the position it was in before the conference was asked (V, 6525), and the amendments in disagreement come up for further action (II, 1473), but do not return to the state they were in before disagreement, so that they need not be considered in Committee of the Whole (V, 6589). Motions for disposition of Senate amendments, sending to conference and instruction of conferees, are again in order (VIII, 3303). However, if a conference report is considered as rejected pursuant to the provisions of clauses 4 or 5, Rule XXVIII, because of the inclusion of nongermane matter, the pending question is as specified in those clauses and, depending on the nature of the text in disagreement, may be to recede and concur with an amendment, to insist on the House position, or to insist on disagreement (see §§ 913b, 913c).

§ 552. Custody of papers when a conference is asked before disagreement.

A conference may be asked, before the House asking it has come to a resolution of disagreement, insisting or adhering. *3 Hats., 269, 341.* In which case the papers are not left with the other conferees, but are brought back to the foundation of the vote to be given. And this is the most reasonable and respectful proceeding; for, as was urged by the Lords on a particular occasion, "it is held vain, and below the wisdom of Parliament, to reason or argue against fixed resolutions, and upon terms of impossibility to persuade." *3 Hats., 226.* * * *

In the Houses of Congress conferences are sometimes asked before a disagreement, and while the rule as to retention of the papers undoubtedly holds good, neglect to observe it has not been questioned (V, 6585).

§ 553. Relations of adherence and conference under the parliamentary law.

* * * So the Commons say, "an adherence is never delivered at a free conference, which implies debate." *10 Grey, 137.* And on another occasion the Lords made it an objection that the Commons had asked a free conference after they had made resolutions of adhering. It was then af-

firmed, however, on the part of the Commons that nothing was more parliamentary than to proceed with free conferences after adhering, *3 Hats., 269,* and we do in fact see instances of conference, or of free conference, asked after the resolution of disagreeing, *3 Hats., 251, 253, 260, 286, 291, 316, 349;* of insisting, *ib., 280, 290, 299, 319, 322, 355;* of adhering, *269, 270, 283, 300;* and even of a second or final adherence. *3 Hats., 270.* * * *

§ 554. Relations of adherence and conference under the practice of the two Houses of Congress.

The two Houses not observing the parliamentary distinctions as to free and other conferences, their practice in case of adherence is also different. Conferences are not asked after an adherence by both Houses, but have often been asked and granted where only one House has adhered (V, 6241–6244). A vote to adhere may not be accompanied by a request for a conference (V, 6303; VIII, 3208), as the House that votes to adhere does not ask a conference (V, 6304–6308). The request for a conference in such a case is properly accompanied by a motion to insist (V, 6308). And the House that has adhered may insist on its adherence when it agrees to the conference (V, 6251). But it is not considered necessary either to recede or insist before agreeing to the conference (V, 6242, 6244, 6310, 6311).

§ 555. Custody of the papers after an effective conference.

* * * And in all cases of conference asked after a vote of disagreement, &c., the conferees of the House asking it are to leave the papers with the conferees of the other; and in one case where they refused to receive them they were left on the table in the conference chamber. *Ib., 271, 317, 323, 354; 10 Grey, 146.*

§ 556. Custody of papers when managers of a conference fail to agree.

This principle of the parliamentary law is recognized as of effect in the two Houses of Congress, and is customarily followed in cases wherein the managers of the conference come to an agreement on which a report may be based (July 31, 1981, p. 18884-5). If conferees of House agreeing to conference surrender papers to House asking conference, the report can be received first by House asking the conference (VIII, 3330). But where a conference breaks up without reaching any agreement the managers for the House which asked the conference, who have the papers by right, are justified in retaining them and carrying them back to the House (IV, 3905 footnote, V, 6246, 6254, 6571-6584; VIII, 3332). And in one case wherein under such circumstances the papers were taken back to the Senate, which was the body agreeing to the conference, the Senate after consideration sent them to the House, since it seemed proper for the asking House to take the first action (V, 6573). But sometimes managers have brought the papers to the agreeing House without question (V, 6239, footnote; July 14, 1988, p. ——).

§ 557. Free or instructed conferences.

After a free conference the usage is to proceed with free conferences and not to return again to a conference. *3 Hats., 270; 9 Grey, 229.*

After a conference denied a free conference may be asked. *1 Grey, 45.*

The House of Representatives instructs its managers whenever it sees fit, without regard to whether or not the preceding conference has been free or instructed.

§ 558. Parliamentary law as to purposes for which conferences may be held.

When a conference is asked, the subject of it must be expressed or the conference not agreed to. *Ord. H. Com., 89; 1 Grey, 425; 7 Grey, 31.* They are sometimes asked to inquire concerning an offense or default of a member of the other House. *6 Grey, 181; 1 Chand., 304.* Or the failure of the other House to present to the King a bill passed by both Houses. *8 Grey, 302.* Or on information received and relating to the safety of the nation. *10 Grey, 171.* Or when the methods of Parliament are thought by the one House to have been departed from by the other a conference is asked to come to a right understanding thereon. *10 Grey, 148.* So when an unparliamentary message has been sent, instead of answering it they ask a conference. *3 Grey, 155.* Formerly an address or articles of impeachment or a bill, with amendments, or a vote of the House, or concurrence in a vote, or a message from the King were sometimes communicated by way of conference. *6 Grey, 128, 300, 387; 7 Grey, 80; 8 Grey, 210, 255; 1 Torbuck's Deb., 278; 10 Grey, 293; 1 Chandler, 49, 287.* But this is not the modern practice. *8 Grey, 255.*

§ 559. Obsolete provision as to conference on first reading.

A conference has been asked after the first reading of a bill. *1 Grey, 194.* This is a singular instance.

The House of Representatives has no procedure conforming to this provision.

SEC. XLVII.—MESSAGES.

§ 560. Messages sent only when both Houses are sitting.

Messages between the Houses are to be sent only while both Houses are sitting. *3 Hats., 15.* * * *

Formerly this rule was observed (V, 6603, 6604), but since the Sixty-second Congress messages have been received by the House when the Senate was not in session (VIII, 3338). Clause 5 of Rule III was added in the 97th Congress to authorize the Clerk to receive messages from the President and the Senate at any time that the House is not in session (H. Res. 5, Jan. 5, 1981, p. 98).

§ 561. Messages received during debate.

* * * They are received during a debate without adjourning the debate. *3 Hats., 22.*

In the House of Representatives messages are received during debate, the Member having the floor yielding on request of the Speaker.

§ 562. Reception of messages during voting, in absence of a quorum, etc.

In Senate the messengers are introduced in any state of business, except: 1. While a question is being put. 2. While the yeas and nays are being called. 3. While the ballots are being counted. The first case is short; the second and third are cases where any interruption might occasion errors difficult to be corrected. So arranged June 15, 1798.

In the House of Representatives messages are not received while a question is being put, during a division by rising vote, or during a vote by tellers; but they are received during the call of the yeas and nays, during consideration of a question of privilege (V, 6640–6642), during a call of the House (V, 6600, 6650; VIII, 3339), during debate on a motion to approve the Journal (Sept. 13, 1965, p. 23607), and before the organization of the House (V, 6647–6649). But the Speaker exercises his discretion about interrupting the pending business (V, 6602).

§ 563. Informal rising of Committee of the Whole to receive a message.

In the House of Representatives, as in Parliament, if the House be in committee when a messenger attends, the Speaker takes the chair to receive the message, and then quits it to return into committee without any question or interruption. *4 Grey, 226.*

§ 564. Salutation of messengers by the Speaker.

Messengers are not saluted by the Members, but by the Speaker for the House. *2 Grey, 253, 274.*

The practice of the House of Representatives as to reception of messages is founded on this paragraph of the parliamentary law and on the former joint rules (V, 6591–6595). The Speaker, with a slight inclination, addresses the messenger, by his title, after the messenger, with an inclination, has addressed "Mr. Speaker" (V, 6591).

§ 565. Correction and return of messages.

If messengers commit an error in delivering their message, they may be admitted or called in to correct their message. *4 Grey, 41.* Accordingly, March 13, 1800, the Senate having made two amendments to a bill from the House of Representatives, their Secretary, by mistake, delivered one only, which being inadmissible by itself, that House disagreed, and notified the Senate of their disagreement. This produced a discovery of the mistake. The Secretary was sent to the other House to correct his mistake, the correction was received, and the two amendments acted on de novo.

The request of the Senate that its Secretary be allowed to correct an error in a message was granted by order of the House (V, 6605), and in a similar case, when the House directed its clerk to correct an error in a message to the Senate, the Senate agreed to the correction (V, 6607). In the House a proposition to correct an error in a message to the Senate is received as a question of privilege (III, 2613; Oct. 1, 1982, p. 27172). One House sometimes asks of the other the return of a message (V, 6609-6611).

§ 566. Disposal of messages after reception.

As soon as the messenger who has brought bills from the other House has retired, the Speaker holds the bills in his hand; and acquaints the House "that the other House have by their messenger sent certain bills," and then reads their titles, and delivers them to the Clerk to be safely kept till they shall be called for to be read. *Hakew., 178.*

In the House of Representatives the message goes to the Speaker's table, but the Speaker does not acquaint the House, as they have already heard the message. From the Speaker's table messages are disposed of under Rule XXIV, clause 2.

§ 567. Information by message as to bills passed.

It is not the usage for one House to inform the other by what numbers a bill is passed. *10 Grey, 150.* Yet they have sometimes recommended a bill, as of great importance, to the consideration of the House to which it is sent. *3 Hats., 25.* * * *

The Houses of Congress do not communicate by what numbers a bill is passed, or otherwise recommend their bills.

§ 568. Information by message as to rejection of bills.

* * * Nor when they have rejected a bill from the other House, do they give notice of it; but it passes sub silentio, to prevent unbecoming altercations. *1 Blackst., 183.*

But in Congress the rejection is notified by message to the House in which the bill originated.

In the two Houses of Congress the fact of the rejection of a bill is messaged to the House in which the bill originated, as in the days of Jefferson, although the joint rule requiring it has disappeared (IV, 3422; V, 6601). And in a case wherein the House had stricken out the enacting words of a Senate bill, the Senate was notified that the bill had been rejected (IV, 3423; VII, 2638; Oct. 4, 1972, pp. 33785–87).

§ 569. Questions asked by conference, not by message.

A question is never asked by the one House of the other by way of message, but only at a conference; for this is an interrogatory, not a message. *3 Grey, 151, 181.*

In 1798 the House of Representatives asked of the Senate a question by way of conference, but this appears to be the only instance (V, 6256).

§ 570. Messages as to neglected bills.

When a bill is sent by one House to the other, and is neglected, they may send a message to remind them of it. *3 Hats., 25; 5 Grey, 154.* But if it be mere inattention, it is better to have it done informally by communication between the Speakers or Members of the two Houses.

It does not appear that either House of Congress has by message reminded the other of a neglected bill.

§ 571. Messages from the President of the two Houses.

Where the subject of a message is of a nature that it can properly be communicated to both Houses of Parliament, it is expected that this communication should be made to both on the same day. But where a message was accompanied with an original declaration, signed by the party to which the message referred, its being sent to one House was not noticed by the other, because the declaration being original, could not possibly be sent to both Houses at the same time. *2 Hats., 260, 261, 262.*

The King having sent original letters to the Commons afterward desires they may be returned, that he may communicate them to the Lords. *1 Chandler, 303.*

A message of the President of the United States is usually communicated to both Houses on the same day when its nature permits (V, 6590); but an original document accompanying can, of course, be sent to but one House (V, 6616, 6617). The President having by inadvertence included certain papers in a message, was allowed to withdraw them (V, 6651). In the House of Representatives the Speaker has the discretion, which he rarely exercises, to suspend a rollcall in order to receive a message from the President.

SEC. XLVIII.—ASSENT.

§ 572. Parliamentary law as to presenting a bill for the King's assent.

The House which has received a bill and passed it may present it for the King's assent, and ought to do it, though they have not by message notified to the other their passage of it. Yet the notifying by message is a form which ought to be observed between the two Houses from motives of respect and good understanding. *2 Hats., 242.* Were the bill to be withheld from being presented to the King, it would be an infringement of the rules of Parliament. *Ib.*

In the House of Representatives it was held that where there had been no unreasonable delay in transmitting an enrolled bill to the President, a resolution relating thereto did not present a question of privilege (III, 2601).

§ 573. Parliamentary law as to enrollment of bills.

When a bill has passed both Houses of Congress, the House last acting on it notifies its passage to the other, and delivers the bill to the Joint Committee on Enrollment, who sees that it is truly enrolled in parchment. When the bill is enrolled it is not to be written in paragraphs, but solidly, and all of a piece, that the blanks between the paragraphs may not give room for forgery. *9 Grey, 143.* * * *

§ 574. Practice of the two Houses of Congress as to enrollments of bills.

Formerly the enrollment in the House of Representatives and the Senate was in writing (IV, 3436, 3437); but in 1893 the two Houses, by concurrent resolution, provided that bills should be enrolled on parchment by printing instead of by writing, and also that the engrossment of bills prior to sending them to the other House for action should be in printing (IV, 3433), and in 1895 this concurrent resolution was approved by statute (IV, 3435; 28 Stat. L. 769; 1 U.S.C. 106). In the last six days of a session of Congress the two Houses, by concurrent resolution, may permit the enrolling and engrossing to be done by hand (IV, 3435, 3438; H. Con. Res. 436, Dec. 20, 1982, p. 32875; H. Con. Res. 375, Oct. 11, 1984, p. ——), and such a concurrent resolution is privileged for consideration in the House during the last six days of the session (see 1 U.S.C. 106 for authority to waive ordinary printing requirements at the end of a session), but prior to the last six days, a joint resolution changing the law to permit hand enrollments is required and may be considered in the House by unanimous consent (Dec. 10, 1985, p. 35741). The two houses have by joint resolution authorized not only a "hand enrollment" of a time-sensitive bill but also a parchment enrollment of the same measure, to be prepared at a later time for deposit in the National Archives with the original (P.L. 100-199, Dec. 21, 1987, p. ——; P.L. 100-454, Sept. 29, 1988, p. ——). Only in a very exceptional case have the two Houses waived the requirement that bills shall be enrolled (IV, 3442). The enrolling clerk should make no change, however unimportant, in the text of a bill to which the House has agreed (III, 2598); but the two Houses may by concurrent resolution authorize the correction of an error when enrollment is made (IV, 3446–3450), and this seems a better practice than earlier methods by authority of the Committee on Enrolled Bills (IV, 3444, 3445). (NOTE.—The Committee on Enrolled Bills was abolished under the Legislative Reorganization Act of 1946, 60 Stat. 812, and its powers and duties transferred to the Committee on House Administration.)

§ 575. Signing of enrolled bills for presentation to the President.

* * * It is then put into the hands of the Clerk of the House of Representatives to have it signed by the Speaker. The Clerk then brings it by way of message to the Senate to be signed by their President. The Secretary of the Senate returns it to the Committee of Enrollment, who present it to the President of the United States. * * *

The practice of the two Houses of Congress for the signing of enrolled bills was formerly governed by joint rules, and has continued since those rules were abrogated in 1876 (IV, 3430). The bills are signed first by the Speaker, then by the President of the Senate (IV, 3429). By unanimous consent where errors are found in enrolled bills that have been signed, the two Houses by concurrent action may authorize the cancellation of the signatures and a reenrollment (IV, 3453–3459), and in the same way the signatures may be cancelled on a bill prematurely enrolled (IV, 3454).

§ 576. Authority of pro tempore presiding officers to sign enrolled bills.

A Speaker pro tempore elected by the House (II, 1401), or whose designation has received the approval of the House (II, 1404; VI, 277), signs enrolled bills (see clause 7 of Rule I); but a Member merely called to the chair during the day (II, 1399, 1400; VI, 276), or designated in writing by the Speaker, does not exercise this function (II, 1401).

The Senate, by rule, has empowered a presiding officer by written designation to sign enrolled bills (II, 1403).

§ 577. Presentation of enrolled bills to the President.

In early days a joint committee took enrolled bills to the President (IV, 3432); but in the later practice the chairman of the committee in each House having responsibility for the enrollment of bills also has the responsibility of presenting the bills from that House, and submits from his committee daily a report of the bills presented for entry in the journal (IV, 3431). Enrolled bills pending at the close of a session have, at the next session of the same Congress, been ordered to be treated as if no adjournment had taken place (IV, 3487–3488). And enrolled bills signed by the presiding officers at one session have been sent to the President and approved at the next session of the same Congress (IV, 3486). At the close of the 97th Congress, some enrollments were presented to the President, and were signed by him, after the convening of the 98th Congress.

SEC. XLIX.—JOURNALS.

* * * * *

§ 578. Obsolete provisions as to entry of motions in the journal.

If a question is interrupted by a vote to adjourn, or to proceed to the orders of the day, the original question is never printed in the journal, it never having been a vote, nor introductory to any vote; but when suppressed by the previous question, the first question must be stated, in order to introduce and make intelligible the second. *2 Hats., 83.*

This provision of the parliamentary law is superseded by Rule XVI, clause 1, which requires every motion entertained by the Speaker to be entered on the Journal.

§ 579. Journal entries of questions postponed, or laid on the table.

So also when a question is postponed, adjourned, or laid on the table, the original question, though not yet a vote, must be expressed in the journals, because it makes part of the vote of postponement, adjourning, or laying it on the table.

In the House of Representatives a question is not adjourned, except in the sense that it may be left to go over as unfinished business by reason of a vote to adjourn.

§ 580. Entry of amendments in the journal.

Where amendments are made to a question, those amendments are not printed in the journals, separated from the question; but only the question as finally agreed to by the House. The rule of entering in the journals only what the House has agreed to, is founded in great prudence and good sense, as there may be many questions proposed which it may be improper to publish to the world in the form in which they are made. *2 Hats., 85.*

In the practice of the House of Representatives a motion to amend is entered on the Journal as any other motion, under Rule XVI, clause 1.

* * * * *

§ 581. Entry of votes in journal of the House of Commons.

The first order for printing the votes of the House of Commons was October 30, 1685. *1 Chandler, 387.*

§ 582. The journal as an official record.

Some judges have been of opinion that the journals of the House of Commons are no records, but only remembrances. But this is not law. *Hob., 110, 111; Lex. Parl., 114, 115; Jour. H. C., Mar. 17, 1592; Hale, Parl., 105.* For the Lords in their House have power of judicature, the Commons in their House have power of judicature, and both Houses together have power of judicature; and the book of the Clerk of the House of Commons is a record, as is affirmed by act of Parl., *6 H. 8, c. 16; 4 Inst., 23, 24;* and every member of the House of Commons hath a judicial place. *4 Inst., 15.* As records they are open to every person, and a printed vote of either House is sufficient ground for the other to notice it. Either may appoint a committee to inspect the journals of the other, and report what has been done by the other in any particular case. *2 Hats., 261; 3 Hats., 27–30.* Every member has a right to see the journals and to take and publish votes from them. Being a record, every one may see and publish them. *6 Grey, 118, 119.*

The Journal of the House of Representatives is the official record of the proceedings of the House (IV, 2727), and certified copies are admitted as evidence in the courts of the United States (IV, 2810; 28 U.S.C. 1736). A Senate committee concluded that the Journal entries of a legislative body were conclusive as to all the proceedings had, and might not be contradicted by ex parte evidence (I, 563).

§ 583. Correction of the journal through a committee.

On information of a misentry or omission of an entry in the journal, a committee may be appointed to examine and rectify it, and report it to the House. *2 Hats., 194, 195.*

SEC. L.—ADJOURNMENT.

§ 584. Parliamentary law as to adjournment of the Commons and Lords.

The two Houses of Parliament have the sole, separate, and independent power of adjourning each their respective Houses. The King has no authority to adjourn them; he can only signify his desire, and it is in the wisdom and prudence of either House to comply with his requisition, or not, as they see fitting. *2 Hats., 232; 1 Blackst., 186; 5 Grey, 122.*

* * * * *

§585. Motion to adjourn not to be amended.

A motion to adjourn, simply cannot be amended, as by adding "to a particular day;" but must be put simply "that this House do now adjourn;" and if carried in the affirmative, it is adjourned to the next sitting day, unless it has come to a previous resolution, "that at its rising it will adjourn to a particular day," and then the House is adjourned to that day. *2 Hats., 82.*

This rule is of effect in the modern practice of the House of Representatives (Rule XVI, clause 4, §§783-4).

§586. Motion for a recess.

Where it is convenient that the business of the House be suspended for a short time, as for a conference presently to be held, &c., it adjourns during pleasure; *2 Hats., 305;* or for a quarter of an hour. *4 Grey, 331.*

An adjournment during pleasure is effected in the House of Representatives by a motion for a recess. A recess may not be taken by less than a quorum (IV, 2958-2960), and consequently the motion for it is not in order in the absence of a quorum (IV, 2955-2957). When the hour previously fixed for a recess arrives, the Chair declares the House in recess even in the midst of a division or when a quorum is not present (V, 6665, 6666; IV, 664); but a roll call is not in this way interrupted (V, 6054, 6055). Where a special order requires a recess at a certain hour of a certain day, the recess is not taken if the encroachment of a prior legislative day prevents the existence of the said certain day as a legislative day (IV, 3192). And an adjournment at a time prior to the hour fixed for a recess vacates the recess (IV, 3283). A motion for a recess must, when entertained, be voted on, even though the taking of the vote may have been prevented until after the hour specified for the conclusion of the proposed recess (V, 6667). A Committee of the Whole takes a recess only by permission of the House (V, 6669-6671; VIII, 3362). The motion for a recess is not privileged (V, 4302, 5301, 6740), in the House or in Committee of the Whole (June 26, 1981, p. 14356) against a demand that business proceed in the regular order (V, 6663; VIII, 3354-3356), and the customary practice is for the House, by unanimous consent, to authorize the Speaker to declare recesses subject to the call of the Chair.[a]

§587. Adjournment pronounced by the Speaker.

If a question be put for adjournment, it is no adjournment till the Speaker pronounces it. *5 Grey, 137.* And from courtesy and respect, no member leaves his place till the Speaker has passed on.

SEC. LI.—A SESSION.

§588. Sessions of Parliament.

Parliament have three modes of separation, to wit: by adjournment, by prorogation or dissolution by the King, or by the efflux of the term for which they were elected. Prorogation or dissolution constitutes there what is called a session; provided some act was passed. In this case all matters depending before them are discontinued, and at their next meeting are to be taken up de novo, if taken up at all. *1 Blackst., 186.* Adjournment, which is by themselves, is no more than a continuance of the session from one day to another, of for a fortnight, a month, &c., ad libitum. All matters depending remain in statu quo, and when they meet again, be the term ever so distant, are resumed, without any fresh commencement, at the point at which they were left. *1 Lev., 165; Lex. Parl., c. 2; 1 Ro. Rep., 29; 4 Inst., 7, 27, 28; Hutt., 61; 1 Mod., 252; Ruffh. Jac., L. Dict. Parliament; 1 Blackst., 186.* Their whole session is considered in law but as one day, and has relation to the first day thereof. *Bro. Abr. Parliament, 86.*

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[a] During a session of Congress neither House shall adjourn for more than three days without the consent of the other. (U.S. Constitution, art. I, sec. 5, par. 4.)

§ 589. Sitting of committees in recesses, and creation of commissions to sit after Congress adjourns.

Committees may be appointed to sit during a recess by adjournment, but not by prorogation. *5 Grey, 374; 9 Grey, 350; 1 Chandler, 50.* Neither House can continue any portion of itself in any parliamentary function beyond the end of the session without the consent of the other two branches. When done, it is by a bill constituting them commissioners for the particular purpose.

The House of Representatives may empower a committee to sit during a recess which is within the constitutional term of the House (IV, 4541–4543), but not thereafter (IV, 4545). Therefore committees are created commissions by law if their functions are to extend beyond the term of the Congress (IV, 4545). Pursuant to H. Res. 988, 93d Congress, all committees are now authorized to sit and act anywhere within the United States whether the House is in session or has adjourned (clause 2(m)(1)(A), Rule XI). By unanimous consent, all committees may be authorized to file investigative reports and annual activities reports following sine die adjournment (Oct. 17, 1986, p. ——).

§ 590. Sessions and recesses of Congress.

Congress separate in two ways only, to wit, by adjournment, or dissolution by the efflux of their time. What, then, constitutes a session with them? A dissolution certainly closes one session, and the meeting of the new Congress begins another. The Constitution authorizes the President, "on extraordinary occasions to convene both Houses, or either of them." *I, 3.* If convened by the President's proclamation, this must begin a new session, and of course determine the preceding one to have been a session. So if it meets under the clause of the Constitution which says, "the Congress shall assemble at least once in every year, and such meeting shall be on the first Monday in December, unless they shall by law appoint a different day." *I. 4.* This must begin a new session; for even if the last adjournment was to this day the act of adjournment is merged in the higher authority of the Constitution, and the meeting will be under that, and not under their adjournment. So far we have fixed landmarks for determining sessions. * * *

The twentieth amendment to the Constitution, clause 2, now provides that the Congress shall assemble at least once in every year, at noon on the 3d day of January, unless they shall by law appoint a different day. Section 132 of the Legislative Reorganization Act of 1946, 60 Stat. 812, as amended by Section 461 of the Legislative Reorganization Act of 1970, 84 Stat. 1140, provides that except in time of war the two Houses shall adjourn sine die not later than the last day of July (Sundays excepted) unless otherwise provided by the Congress. [See H. Con. Res. 648, 92d Cong. (passed House July 25, 1972, pp. 25145–46) for form of resolution used to continue in session past July 31.] The same section contemplates an adjournment of Congress from the thirtieth day before to the second day following Labor Day in the first session of a Congress (in each odd-numbered year) in lieu of a sine die adjournment. See § 947. Congress is adjourned for more than three days by a concurrent resolution (IV, 4031, footnote), and such adjournments to a day certain, within the session, do not terminate the session (V, 6676, 6677). In one instance the two Houses by concurrent resolution provided for adjournment to a day certain with the provision that if there be no quorum present on that day the session should terminate (V, 6686). Prior to the adoption of the twentieth amendment it had become established practice that a meeting of Congress once within the year did not make uncertain the constitutional mandate to meet on the first Monday of December (I, 10, 11). And where a special session continued until the time prescribed by the Constitution for the annual meeting without an appreciable intervening time (V, 6690, 6692), a question arose as to whether there had actually been a recess of Congress (V, 6687, 6693), with the conclusion that a recess was a real and not an imaginary time (V, 6687).

§ 591. Manner of closing a session by action of the two Houses.

* * * In other cases it is declared by the joint vote authorizing the President of the Senate and the Speaker to close the session on a fixed day, which is

usually in the following form: "Resolved by the Senate and House of Representatives, that the President of the Senate and the Speaker of the House of Representatives be authorized to close the present session by adjourning their respective Houses on the ——— day of ———."

In the modern practice the resolving clause of the concurrent resolution is in form different from that given by Jefferson. At the close of the first session of the Sixty-sixth Congress, the two Houses adjourned sine die under authority granted each House by simple resolutions consenting to such adjournment sine die at any time prior to a specified date (November 19, 1919, p. 8810). Pursuant to H. Con. Res. 266, 83d Congress, the House adjourned sine die on August 20, 1954, with consent of the House to adjournment sine die of the Senate at any time prior to December 25, 1954 (August 20, 1954, p. 15554). In the 93d Congress, the two Houses adopted concurrent resolutions adjourning their sessions sine die or until reconvened by the Joint House-Senate leadership (see H. Con. Res. 412, Dec. 22, 1973, p. 43327; H. Con Res. 697, Dec. 20, 1974, p. 41815). In the 97th Congress, 2d Session, a concurrent resolution provided for the adjournment sine die of the House on December 20 or December 21 pursuant to a motion made by the Majority Leader or his designee, and provided the consent of the House to the adjournment sine die of the Senate at any time prior to January 3, 1983 as determined by the Senate, and also provided the consent of the House for adjournments and recesses or the Senate for more than three days as determined by the Senate during such period (H. Con. Res. 438, Dec. 20, 1982, p. 32951). Under the current practice, first session sine die adjournment concurrent resolutions contain House-Senate leadership recall authority, while second session resolutions usually do not (for the unusual case see H. Con. Res. 697, 93rd Cong., Dec. 20, 1974, p. 41815), and all such resolutions permit the motion to adjourn sine die only by the Majority Leaders or their designees (Dec. 19, 1985, p. 38358; Oct. 17, 1986, p. ——).

§ 592. Parliamentary law as to business at the termination of a session.

When it was said above that all matters depending before Parliament were discontinued by the determination of the session, it was not meant for judiciary cases depending before the House of Lords, such as impeachments, appeals, and writs of error. These stand continued, of course, to the next session. *Raym., 120, 381; Ruffh. Fac., L. D., Parliament.*

Impeachments stand, in like manner, continued before the Senate of the United States.

In the House of Representatives Rule XXVI and the practice thereunder show that the two Houses of Congress have departed from the law of Parliament.

SEC. LII.—TREATIES.

* * * * *

§ 593. General nature of treaties.

Treaties are legislative acts. A treaty is the law of the land. It differs from other laws only as it must have the consent of a foreign nation, being but a contract with respect to that nation. In all countries, I believe, except England, treaties are made by the legislative power; and there, also, if they touch the laws of the land they must be approved by Parliament. Ware *v.* Hylton, *3 Dallas's Rep., 223.* It is acknowledged, for instance, that the King of Great Britain cannot by a treaty make a citizen of an alien. *Vattel, b. 1, c. 19, sec. 214.* An act of Parliament was necessary to validate the American treaty of 1783. And abundant examples of such acts can be cited. In the case of the treaty of Utrecht, in 1712, the commercial articles required the concurrence of Parliament; but a bill brought in for that purpose was rejected. France, the other contracting party, suffered these articles, in practice, to be not insisted on, and adhered to the rest of the treaty. *4 Russell's Hist. Mod. Europe, 457; 2 Smollet, 242, 246.*

§ 594. Jefferson's discussion of treaties under the Constitution.

By the Constitution of the United States this department of legislation is confined to two branches only of the ordinary legislature—the President originating and the Senate having a negative. To what subjects this power extends has not been defined in detail by the Constitution; nor are we entirely agreed among ourselves. 1. It is admitted that it must concern the foreign nation party to the contract, or it would be a mere nullity, res inter alias acta. 2. By the general power to make treaties, the Constitution must have intended to comprehend only those subjects which are usually regulated by treaty, and can not be otherwise regulated. 3. It must have meant to except out of these the rights reserved to the States; for surely the President and Senate can not do by treaty what the whole Government is interdicted from doing in any way. 4. And also to except those subjects of legislation in which it gave a participation to the House of Representatives. This last exception is denied by some on the ground that it would leave very little matter for the treaty power to work on. The less the better, say others. The Constitution thought it wise to restrain the Executive and Senate from entangling and embroiling our affairs with those of Europe. Besides, as the negotiations are carried on by the Executive alone, the subjecting to the ratification of the representatives such articles as are within their participation is no more inconvenient than to the Senate. But the ground of this exception is denied as unfounded. For examine, e.g., the treaty of commerce with France, and it will be found that, out of thirty-one articles, there are not more than small portions of two or three of them which would not still remain as subjects of treaties, untouched by these exceptions.

§ 595. General action of the House as to treaties.

The participation of the House of Representatives in the treaty-making power has been often examined since Jefferson's Manual was written. The House has in several instances taken action in carrying into effect, terminating, enforcing, and suggesting treaties (II, 1502–1505, 1520–1522), although sometimes the propriety of requesting the Executive to negotiate a treaty has been questioned (II, 1514–1517).

§ 596. Authority of the House as to treaties in general.

The exact authority of the House in the making of general treaties has been the subject of differences of opinion. In 1796 the House affirmed that when a treaty related to subjects within the power of Congress it was the constitutional duty of the House to deliberate on the expediency of carrying such treaty into effect (II, 1509); and in 1816, after a discussion with the Senate, the House maintained its position that a treaty must depend on a law of Congress for its execution as to such stipulations as relate to subjects constitutionally entrusted to Congress (II, 1506). In 1868 the House's assertion of right to a voice in carrying out the stipulations of certain treaties was conceded in a modified form (II, 1508). Again, in 1871, the House asserted its prerogative (II, 1523). In 1820 and 1868 there were discussions of the House's functions as to treaties ceding or acquiring foreign territory (II, 1507, 1508), and at various other times there have been discussions of the general subject (II, 1509, 1546, 1547; VI, 324–326).

§ 597. Authority of the House as to revenue treaties.

After long and careful consideration the Judiciary Committee of the House decided, in 1887, that the executive branch of the Government might not conclude a treaty affecting the revenue without the assent of the House (II, 1528–1530), and a Senate committee after examination concluded that duties were more properly regulated with the publicity of congressional action than by treaties negotiated by the President and ratified by the Senate in secrecy (II, 1532). In practice the House has acted on revenue treaties (II, 1531, 1533); and in 1880 it declared the negotiation of a revenue treaty an invasion of its prerogatives (II, 1524). At other times the subject has been discussed (II, 1525–1528, 1531, 1533).

After long discussion the House, in 1871, successfully asserted its right to a voice in approving Indian treaties (II, 1535, 1536), although in earlier times this prerogative had been jealously guarded by the Executive (II, 1534).

§ 598. House approves Indian treaties.

There have been various conflicts with the Executive over requests of the House for papers relating to treaties (II, 1509-1513, 1518, 1519, 1561).

§ 599. Treaties abrogated by law.

Treaties being declared, equally with the laws of the United States, to be the supreme law of the land, it is understood that an act of the legislature alone can declare them infringed and rescinded. This was accordingly the process adopted in the case of France in 1798.

Notice to a foreign government of the abrogation of a treaty is authorized by a joint resolution (V, 6270).

§ 600. Procedure of the Senate as to treaties.

It has been the usage for the Executive, when it communicates a treaty to the Senate for their ratification, to communicate also the correspondence of the negotiators. This having been omitted in the case of the Prussian treaty, was asked by a vote of the House of February 12, 1800, and was obtained. And in December, 1800, the convention of that year between the United States and France, with the report of the negotiations by the envoys, but not their instructions, being laid before the Senate, the instructions were asked for and communicated by the President.

The mode of voting on questions of ratification is by nominal call.

The Senate now has rules governing its procedure on treaties.

SEC. LIII.—IMPEACHMENT.

* * * * *

§ 601. Jurisdiction of Lords and Commons as to impeachments.

These are the provisions of the Constitution of the United States on the subject of impeachments. The following is a sketch of some of the principles and practices of England on the same subject:

Jurisdiction. The Lords can not impeach any to themselves, nor join in the accusation, because they are the judges. *Seld. Judic. in Parl., 12, 63.* Nor can they proceed against a commoner but on complaint of the Commons. *Ib., 84.* The Lords may not, by the law, try a commoner for a capital offense, on the information of the King or a private person, because the accused is entitled to a trial by his peers generally; but on accusation by the House of Commons, they may proceed against the delinquent, of whatsoever degree, and whatsoever be the nature of the offense; for there they do not assume to themselves trial at common law. The Commons are then instead of a jury, and the judgment is given on their demand, which is instead of a verdict. So the Lords do only judge, but not try the delinquent. *Ib., 6, 7.* But Wooddeson denies that a commoner can now be charged capitally before the Lords, even by the Commons; and cites Fitzharris's case, 1681, impeached of high treason, where the Lords remitted the prosecution to the inferior court. *8 Grey's Deb., 325–7; 2 Wooddeson, 576, 601; 3 Seld., 1604, 1610, 1618, 1619, 1641; 4 Blackst., 25; 9 Seld., 1656; 73 Seld., 1604–18.*

§ 602. Parliamentary law as to accusation in impeachment.

Accusation. The Commons, as the grand inquest of the nation, becomes suitors for penal justice. *2 Wood., 597; 6 Grey, 356.* The general course is to pass a resolution containing a criminal charge against the supposed delinquent, and then to direct some member to impeach him by oral accusation, at the bar of the House of Lords, in the name of the Commons. The person signifies that the articles will be exhibited, and desires that the delinquent may be sequestered from his seat, or be committed, or that the peers will take order for his appearance. *Sachev. Trial, 325; 2 Wood., 602, 605; Lords' Journ., 3 June, 1701; 1 Wms., 616; 6 Grey, 324.*

§ 603. Inception of impeachment proceedings in the House.

In the House of Representatives there are various methods of setting an impeachment in motion: by charges made on the floor on the responsibility of a Member or Delegate (II, 1303; III, 2342, 2400, 2469; VI, 525, 526, 528, 535, 536); by charges preferred by a memorial, which is usually referred to a committee for examination (III, 2364, 2491, 2494, 2496, 2499, 2515; VI, 543); or by a resolution dropped in the hopper by a Member and referred to a committee (April 15, 1970, p. 11941–2; October 23, 1973, p. 34873); by a message from the President (III, 2294, 2319; VI, 498); by charges transmitted from the legislature of a State (III, 2469) or Territory (III, 2487) or from a grand jury (III, 2488); or from facts developed and reported by an investigating committee of the House (III, 2399, 2444). In the 93d Congress, the Vice President sought to initiate an investigation by the House of charges against him of possibly impeachable offenses; the Speaker and the House took no action on the request since the matter was pending in the courts and the offenses did not relate to activities during the Vice President's term of office (September 25, 1973, p. 31368) [Based upon III, 2510 wherein the Committee on the Judiciary (to which the matter had been referred by privileged resolution) reported that a civil officer (the Vice President) could not be impeached for acts or omissions committed prior to his term of office. In III, 1736, however, the Vice President's request that the House investigate charges against his prior offical conduct as Secretary of War was referred, on motion, to a select committee.]

§ 604. A proposition to impeach a question of privilege.

A direct proposition to impeach is a question of high privilege in the House and at once supersedes business otherwise in order under the rules governing the order of business (III, 2045–2048; VI, 468, 469; July 22, 1986, p. ——; Aug. 3, 1988, p. ——). (See also Procedure (97th Cong.) ch. 14, §§ 1–5). It may not even be superseded by an election case, which is also a matter of high privilege (III, 2581). It does not lose its privilege from the fact that a similar proposition has been made at a previous time during the same session of Congress (III, 2408), previous action of the House not affecting it (III, 2053). So, also, propositions relating to an impeachment already made are privileged (III, 2400, 2402, 2410; July 22, 1986, p. ——; Aug. 3, 1988, p. ——), such as resolutions providing for selection of managers of an impeachment (VI, 517), proposing abatement of impeachment proceedings (VI, 514), reappointing managers for impeachment proceedings continued in the Senate from the previous Congress (Jan. 3, 1989, p. ——), and replacing an excused manager (Feb. 7, 1989, p. ——); but a resolution simply proposing an investigation, even though impeachment may be a possible consequence, is not privileged (III, 2050, 2546; VI, 463). But where a resolution of investigation positively proposes impeachment or suggests that end, it has been admitted as of privilege (III, 2051, 2052, 2401, 2402). A committee to which has been referred privileged resolutions for the impeachment of a federal civil officer may call up as privileged resolutions incidental to consideration of the impeachment question, including conferral of subpoena authority and funding of the investigation from the contingent fund (VI, 549; February 6, 1974, p. 2349). A resolution authorizing depositions by committee counsel in an impeachment inquiry is privileged under Rule IX and the Constitution as incidental to impeachment (Speaker Wright, Oct. 3, 1988, p. ——).

§ 605. Investigation of impeachment charges.

The impeachment having been made on the floor by a Member (III, 2342, 2400; VI, 525, 526, 528, 535, 536), or charges suggesting impeachment having been made by memorial (III, 2495, 2516; 2520, VI, 552), or even appearing through common fame (III, 2385, 2506), the House has at times ordered an investigation at once. At other times it has refrained from ordering investigation until the charges had been examined by a committee (III, 2364, 2488, 2491, 2492, 2494, 2504, 2513). Under the later practice, resolutions introduced through the hopper, under Rule XXII, clause 4, which directly call for the impeachment of a federal civil officer have been referred to the Committee on the Judiciary, while resolutions calling for an investigation by that committee or by a select committee with a view toward impeachment have been referred to the Committee on Rules (October 23, 1973, p. 34873).

§ 606. Procedure of committee in investigating.

The House has always examined the charges by its own committee before it has voted to impeach (III, 2294, 2487, 2501). This committee has sometimes been a select committee (III, 2342, 2487, 2494), sometimes a standing committee (III, 2400, 2409). In some instances the committee has made its inquiry ex parte (III, 2319, 2343, 2366, 2385, 2403, 2496, 2511); but in the later practice the sentiment of committees has been in favor of permitting the accused to explain, present witnesses, cross-examine (III, 2445, 2471, 2518), and be represented by counsel (III, 2470, 2501, 2511, 2516; 93d Congress, August 20, 1974, p. 29219). The Committee on the Judiciary having been directed by the House to investigate whether sufficient grounds existed for the impeachment of President Nixon, and the President having resigned following the decision of that committee to recommend his impeachment to the House, the chairman of the committee submitted from the floor as privileged the committee's report containing the articles of impeachment approved by the committee but without an accompanying resolution of impeachment. The House thereupon adopted a resolution (1) taking notice of the committee's action on a resolution and Articles of Impeachment and of the President's resignation; (2) accepting the report and authorizing its printing, with additional views; and (3) commending the chairman and members of the committee for their efforts (August 20, 1974, p. 29361).

§ 607. Impeachment carried to the Senate.

Its committee on investigation having reported, the House may vote the impeachment (III, 2367, 2412; VI, 500, 514; March 2, 1936, p. 3067–91), and, after having notified the Senate by message (III, 2413, 2446), may direct the impeachment to be presented at the bar of the Senate by a single Member (III, 2294), or by two (III, 2319, 2343, 2367), or five Members (III, 2445) or nine (July 22, 1986, p. ——). These Members in one notable case represented the majority party alone, but ordinarily include representation of the minority party (III, 2445, 2472, 2505). The chairman of the committee impeaches at the bar of the Senate by oral accusation (III, 2413, 2446, 2473), and requests that the Senate take order as to appearance; but in only one case has the parliamentary law as to sequestration and committal been followed (III, 2118, 2296), later inquiry resulting in the conclusion that the Senate had no power to take into custody the body of the accused (III, 2324, 2367). Having delivered the impeachment the committee return to the House and report verbally (III, 2413, 2446; VI, 501). In the later practice the House considers together the resolution and articles of impeachment (VI, 499, 500, 514; March 2, 1936, pp. 3067–91) and following their adoption adopts resolutions electing managers to present the articles before the Senate, notifying the Senate of the adoption of articles and election of managers, and authorizing the managers to prepare for and to conduct the trial in the Senate (VI, 500, 514, 517; March 6, 1936, pp. 3393, 3394; July 22, 1986, p. ——; Aug. 3, 1988, p. ——).

§ 608. The writ of summons for appearance of respondent.

Process. If the party do not appear, proclamations are to be issued, giving him a day to appear. On their return they are strictly examined. If any error be found in them, a new proclamation issues, giving a short day. If he appear not, his goods may be arrested, and they may proceed. *Seld. Jud. 98, 99.*

The managers for the House of Representatives attend in the Senate after the articles have been exhibited and demand that process issue for the attendance of respondent (III, 2451, 2478), after which they return and report verbally to the House (III, 2423, 2451; VI, 501). The Senate thereupon issue a writ of summons, fixing the day of return (III, 2423, 2451); and in a case wherein the respondent did not appear by person or attorney the Senate published a proclamation for him to appear (III, 2393). But the respondent's goods were not attached.

§ 609. Exhibition and form of articles.

Articles. The accusation (articles) of the Commons is substituted in place of an indictment. Thus, by the usage of Parliament, in impeachment for writing or speaking, the particular words need not be specified. *Sach. Tr., 325; 2 Wood., 602, 605; Lords' Journ., 3 June, 1701; 1 Wms., 616.*

Formerly, the House exhibited its articles after the impeachment had been carried to the bar of the Senate; in the later practice, the resolution and articles of impeachment have been considered together and exhibited simultaneously in the Senate by the managers (VI, 501, 515; March 10, 1936, pp. 3485–88; Oct. 7, 1986, p. ——). The managers, who are elected by the House (III, 2300, 2345, 2417, 2448; VI, 500, 514, 517; March 2, 1936, pp. 3393, 3394) or appointed by the Speaker (III, 2388, 2475), carry the articles in obedience to a resolution of the House (III, 2417, 2419, 2448) to the bar of the Senate (III, 2420, 2449, 2476), the House having previously informed the Senate (III, 2419, 2448) and received a message informing them of the readiness of the latter body to receive the articles (III, 2078, 2325, 2345; Aug. 6, 1986, p. ——). Having exhibited the articles the managers return and report verbally to the House (III, 2449, 2476). The articles in the Belknap impeachment were held sufficient, although attacked for not describing the respondent as one subject to impeachment (III, 2123). In the proceedings against Judge Ritter, objections to the articles of impeachment, on the ground that they duplicated and accumulated separate offenses, were overruled (April 3, 1936, p. 4898; April 17, 1936, p. 5606). These articles are signed by the Speaker and attested by the Clerk (III, 2302, 2449), and in form approved by the practice of the House (III, 2420, 2449, 2476).

Articles of impeachment which have been exhibited to the Senate may be subsequently modified or amended by the House (VI, 520; March 30, 1936, pp. 4597–99), and a resolution proposing to amend articles of impeachment previously adopted by the House is privileged for consideration when reported by the managers on the part of the House (VI, 520; March 30, 1936, p. 4597).

For discussion as to the substantive charges contained in articles of impeachment and the constitutional grounds for impeachment, see § 175, supra (footnote to art. II, § 4).

§ 610. Parliamentary law as to appearance of respondent.

Appearance. If he appear, and the case be capital, he answers in custody; though not if the accusation be general. He is not to be committed but on special accusations. If it be for a misdemeanor only, he answers, a lord in his place, a commoner at the bar, and not in custody, unless, on the answer, the Lords find cause to commit him, till he finds sureties to attend, and lest he should fly. *Seld. Jud., 98, 99.* A copy of the articles is given him, and a day fixed for his answer. *T. Ray.; 1 Rushw., 268; Fost., 232; 1 Clar. Hist. of the Reb., 379.* On a misdemeanor, his appearance may be in person, or he may answer in writing, or by attorney. *Seld. Jud., 100.* The general rule on accusation for a misdemeanor is, that in such a state of liberty or restraint as the party is when the Commons complain of him, in such he is to answer. *Ib., 101.* If previously committed by the commons, he answers as a prisoner. But this may be called in some sort judicium parium suorum. *Ib.* In misdemeanors the party has a right to counsel by the common law, but not in capital cases. *Seld. Jud., 102, 105.*

§ 611. Requirements of the Senate as to appearance of respondent.

This paragraph of the parliamentary law is largely obsolete so far as the practice of the House of Representatives and the Senate are concerned. The accused may appear in person or by attorney (III, 2127, 2349, 2424), and take the stand in his own behalf (VI, 511, 524; April 11, 1936, pp. 5370–86; Oct. 7, 1986, p. ——), or he may not appear at all (III, 2307, 2333, 2393). In case he does not appear the House does not ask that he be compelled to appear (III, 2308), but the trial proceeds as on a plea of "not guilty." It has been decided that the Senate has no power to take into custody the body of the accused (III, 2324, 2367). The writ of summons to the accused recites the articles and notifies him to appear at a fixed time and place and file his answer (III, 2127). In all cases respondent may appear by counsel (III, 2129), and in one trial, when a petition set forth that respondent was insane, the counsel of his son was admitted to be heard and present evidence in support of the petition, but not to make argument (III, 2333).

§ 612. Answer of respondent.

Answer. The answer need not observe great strictness of the form. He may plead guilty as to part, and defend as to the residue; or, saving all exceptions, deny the whole or give a particular answer to each article separately. *1 Rush., 274; 2 Rush., 1374; 12 Parl. Hist., 442; 3 Lords' Journ., 13 Nov., 1643; 2 Wood., 607.* But he cannot plead a pardon in bar to the impeachment. *2 Wood., 615; 2 St. Tr., 735.*

In the proceedings following the impeachment of President Andrew Johnson, the answer of the President took up the articles one by one, denying some of the charges, admitting others but denying that they set forth impeachable offenses, and excepting to the sufficiency of others (III, 2428). The form of this answer was commented on during preparation of the replication in the House (III, 2431). Blount and Belknap demurred to the charges on the ground that they were not civil officers within the meaning of the Constitution (III, 2310, 2453), and Swanye also raised questions as to the jurisdiction of the Senate (III, 2481). The answer is part of the pleadings, and exhibits in the nature of evidence may not properly be attached thereto (III, 2124). The answer of the respondent in impeachment proceedings is messaged to the House and there referred to the managers on the part of the House (VI, 506; April 6, 1936, p. 5020; Sept. 9, 1986 p. ——).

§613. Other pleadings.

Replication, rejoinder, &c. There may be a replication, rejoinder, &c. *Sel. Jud., 114; 8 Grey's Deb., 233; Sach. Tr., 15; Journ. H. of Commons, 6 March, 1640–1.*

A replication is always filed (for the form of replication in modern practice, see Sept. 26, 1988, p. ——), and in one instance the pleadings proceeded to a rejoinder, surrejoinder, and similiter (III, 2455). A respondent has also filed a protest instead of pleading on the merits (III, 2461), but there was objection to this and the Senate barely permitted it. In another case respondent interposed a plea as to jurisdiction of offenses charged in certain articles, but declined to admit that it was a demurrer with the admissions pertinent thereto (III, 2125, 2431). In the Belknap trial the House was sustained in averring in pleadings as to jurisdiction matters not averred in the articles (III, 2123). The right of the House to allege in the replication matters not touched in the articles has been discussed (III, 2457). In the Louderback (VI, 522) and Ritter (April 6, 1936, p. 4971) impeachment proceedings, the managers on the part of the House prepared and submitted the replication to the Senate without its consideration by the House, contrary to former practice (VI, 506). The Senate may consider in closed session various preliminary motions made by respondent (e.g., to declare the Senate rule on appointment of a committee to receive evidence to be unconstitutional, to declare beyond a reasonable doubt as the standard of proof in an impeachment trial, and to postpone the impeachment trial) prior to voting in open session to dispose of those motions (Oct. 7, 8, 1986, pp. ———).

§614. Examination of witnesses.

Witnesses. The practice is to swear the witnesses in open House, and then examine them there; or a committee may be named, who shall examine them in committee, either on interrogatories agreed on in the House, or such as the committee in their discretion shall demand. *Seld. Jud., 120, 123.*

In trials before the Senate witnesses have always been examined in open Senate, although examination by a committee has been suggested (III, 2217). In the 74th Congress, the Senate amended its rules for impeachment trials to allow the Presiding Officer, upon the order of the Senate, to appoint a committee to receive evidence and take testimony in the trial of any impeachment (May 28, 1935, p. 8309). And in the trial of

Judge Claiborne the Senate directed the appointment of a committee of twelve Senators to take evidence and testimony pursuant to Rule XI of the Rules of Procedure and Practice in the Senate when Sitting on Impeachment Trials (S. Res. 481, Aug. 15, 1986, p. ———).

§615. Relation of jury trial to impeachment.

Jury. In the case of Alice Pierce, *1 R., 2,* a jury was impaneled for her trial before a committee. *Seld. Jud., 123.* But this was on a complaint, not on impeachment by the Commons. *Seld. Jud., 163.* It must also have been for a misdemeanor only, as the Lords spiritual sat in the case, which they do on misdemeanors, but not in capital cases. *Id., 148.* The judgment was a forfeiture of all her lands and goods. *Id., 188.* This, Selden says, is the only jury he finds recorded in Parliament for misdemeanors; but he makes no doubt, if the delinquent doth put himself on the trial of his country, a jury ought to be impaneled, and he adds that it is not so on impeachment by the Commons, for they are in loco proprio, and there no jury ought to be impaneled. *Id., 124.* The Ld. Berkeley, *6 E., 3,* was arraigned for the murder of L. 2, on an information on the part of the King, and not on impeachment of the Commons; for then they had been patria sua. He waived his peerage, and was tried by a jury of Gloucestershire and Warwickshire. *Id., 126.* In *1 H., 7,* the Commons protest that they are not to be considered as parties to any judgment given, or hereafter to be given in Parliament. *Id., 133.* They have been generally and more justly considered, as is before stated, as the grand jury; for the conceit of Selden is certainly not accurate, that they are the patria sua of the accused, and that the Lords do only judge, but not try. It is undeniable that they do try; for they examine witnesses as to the facts, and acquit or condemn, according to their own belief of them. And Lord Hale says, "the peers are judges of law as well as of fact;" *2 Hale, P. C., 275;* Consequently of fact as well as of law.

No jury is possible as part of an impeachment trial under the Constitution (III, 2313).

§616. Attendance of the Commons.

Presence of Commons. The Commons are to be present at the examination of witnesses. *Seld. Jud., 124.* Indeed, they are to attend throughout, either as a committee of the whole House, or otherwise, at discretion, appoint managers to conduct the proofs. *Rushw. Tr. of Straff., 37; Com. Journ., 4 Feb., 1709–10; 2 Wood., 614.* And judgment is not to be given till they demand it. *Seld. Jud., 124.* But they are not to be present on impeachment when the Lords consider of the answer or proofs and determine of their judgment. Their presence, however, is necessary at the answer and judgment in case capital *Id., 58, 158,* as well as not capital; *162.* * * *.

§617. Attendance of the House of Representatives.

The House of Representatives has consulted its own inclination and convenience about attending its managers at an impeachment. It did not attend at all in the trials of Blount, Swayne, Archbald. Louderback and Ritter (III, 2318, 2483; VI, 504, 516); and after attending at the answer of Belknap, decided that it would be represented for the remainder of the trial by its managers alone (III, 2453). At the trial of the President the House, in Committee of the Whole, attended throughout the trial (III, 2427), but this is exceptional. In the Peck trial the House discussed the subject (III, 2377) and reconsidered its decision to attend the trial daily (III, 2028). While the Senate is deliberating the House does not attend (III, 2435); but when the Senate votes on the charges, as at the other open proceedings of the trial, it may attend (III, 2388, 2383, 2440). While it has frequently attended in Committee of the Whole, it may attend as a House (III, 2338).

§ 618. Voting on the articles in an impeachment trial.

* * * The Lords debate the judgment among themselves. Then the vote is first taken on the question of guilty or not guilty; and if they convict, the question, or particular sentence, is out of that which seemeth to be most generally agreed on. *Seld. Jud., 167; 2 Wood., 612.*

The question in judgment in an impeachment trial has occasioned contention in the Senate (III, 2339, 2340), and in the trial of the President the form was left to the Chief Justice (III, 2438, 2439). In the Belknap trial there was much deliberation over this subject (III, 2466). In the Chase trial the Senate modified its former rule as to form of final question (III, 2363). The yeas and nays are taken on each article separately (III, 2098, 2339) in the form "Senators, how say you? is the respondent guilty or not guilty?" (Oct. 9, 1986, p. ——). But in the trial of the President the Senate, by order, voted on the articles in an order differing from the numerical order (III, 2440), adjourned after voting on one article (III, 2441), and adjourned without day after voting on three of the eleven articles (III, 2443). In other impeachments, the Senate has adopted an order to provide the method of voting and putting the question separately and successively on each article (VI, 524; April 16, 1936, p. 5558).

§ 619. Judgment in impeachments.

Judgment. Judgments in Parliament, for death have been strictly guided per legem terrae, which they can not alter; and not at all according to their discretion. They can neither omit any part of the legal judgment nor add to it. Their sentence must be secundum non ultra legem. *Seld. Jud., 168, 171.* This trial, though it varies in external ceremony, yet differs not in essentials from criminal prosecutions before inferior courts. The same rules of evidence, the same legal notions of crimes and punishments, prevailed; for impeachments are not framed to alter the law, but to carry it into more effectual execution against too powerful delinquents. The judgment, therefore, is to be such as is warranted by legal principles or precedents. *6 Sta. Tr., 14; 2 Wood., 611.* The Chancellor gives judgment in misdemeanors; the Lord High Steward formerly in cases of life and death. *Seld. Jud., 180.* But now the Steward is deemed not necessary. *Fost., 144; 2 Wood., 613.* In misdemeanors the greatest corporal punishment hath been imprisonment. *Seld. Jud., 184.* The King's assent is necessary to capital judgments (but *2 Wood., 614,* contra), but not in misdemeanors, *Seld. Jud., 136.*

The Constitution of the United States (Art I, sec. 3, par. 7) limits the judgment to removal and disqualification.

The order of judgment following conviction in an impeachment trial is divisible for a separate vote if it contains both removal and disqualification (III, 2397; VI, 512; April 17, 1936, p. 5606), and an order of judgment requires a majority vote (VI, 512; April 17, 1936, p. 5607). Under earlier practice, after a conviction the Senate voted separately on the question of punishment (III, 2339, 2397), but under a recent ruling, no vote is required by the Senate on judgment of removal from office following conviction, since removal follows automatically from conviction under art. II, § 4 of the United States Constitution (April 17, 1936, p. 5607). Thus, the Presiding Officer directs judgment of removal from office to be entered and the respondent removed from office without separate action by the Senate on the question of punishment where disqualification is not contemplated (Oct. 9, 1986, p. ——).

§ 620. Impeachment not interrupted by adjournments.

Continuance. An impeachment is not discontinued by the dissolution of Parliament, but may be resumed by the new Parliament. *T. Ray 383; 4 Com. Journ., 23 Dec., 1790; Lord's Jour., May 15, 1791; 2 Wood., 618.*

In Congress impeachment proceedings are not discontinued by a recess (III, 2299, 2304, 2344, 2375, 2407, 2505); and the Pickering impeachment was presented in the Senate on the last day of the Seventh Congress (III, 2320); and at the beginning of the Eighth Congress the proceedings went on from that point (III, 2321). The resolution and articles of impeachment against Judge Louderback were presented in the Senate on the last day of the Seventy-second Congress (VI, 515) and the Senate organized for and conducted the trial in the Seventy-third Congress (VI, 516). The resolution and articles of impeachment against Judge Hastings were presented in the Senate during the second session of the 100th Congress (Aug. 3, 1988, p. ——) but were still pending trial by the Senate in the 101st Congress, for which the House reappointed managers (Jan. 3, 1989, p. ——). But an impeachment may proceed only when Congress is in session (III, 2006, 2462).

RULES OF THE HOUSE OF REPRESENTATIVES

WITH

NOTES AND ANNOTATIONS

RULES OF THE HOUSE OF REPRESENTATIVES, WITH NOTES AND ANNOTATIONS

RULE I.

DUTIES OF THE SPEAKER.

1. The Speaker shall take the Chair every legislative day precisely at the hour to which the House shall have adjourned at the last sitting and immediately call the Members to order. The Speaker, having examined the Journal of the proceedings of the last day's sitting and approved the same, shall announce to the House his approval of the Journal, and the Speaker's approval of the Journal shall be deemed to be agreed to subject to a vote on agreeing to the Speaker's approval on the demand of any Member, which vote, if decided in the affirmative, shall not be subject to a motion to reconsider. It shall be in order to offer one motion that the Journal be read only if the Speaker's approval of the Journal is not agreed to, and such motion shall be determined without debate and shall not be subject to a motion to reconsider.

§ 621. Journal: Speaker's approval.

This clause was adopted in 1789, amended in 1811, 1824 (II, 1310), 1971 (Jan. 22, 1971, pp. 14–15, 140–144, with the implementation of the Legislative Reorganization Act of 1970, 84 Stat. 1140) and 1979 (H. Res. 5, 96th Cong., Jan. 15, 1979, pp. 7, 16).

The hour of meeting is fixed by standing order, and has traditionally been set at 12 m. (I. 104-109, 116, 117; IV, 4325); but beginning in the 95th Congress, the House by standing order formalized the practice of varying its convening time to accommodate committee meetings on certain days of the week and to maximize time for floor action on other days. H. Res. 7, 100th Cong., p. —— provides that the House meet at 12 noon on Mondays and Tuesdays, 2 p.m. on Wednesdays, 11 a.m. on Thursdays and the balance of the week until May 15, when the convening time for Wednesdays through Saturdays is advanced to 10 a.m. for the balance of the session. The House of course retains the right to vary from this schedule by use of the motion to adjourn to a day or time certain as provided in Rule XVI, clause 4. By special order, the House may provide for a session of the House on a Sunday, traditionally a "dies non" under the precedents of the House (Dec. 17, 1982, p. 31946). Immediately after the Members are called to order prayer is offered by the Chaplain (IV, 3056), and the Speaker declines to entertain a point of no quorum before prayer is offered (VI, 663; clause 6(a)(1), Rule XV). Pursuant to clause 1, Rule I as in effect in the 95th Congress, directing the Speaker to announce his approval of the Journal "on the appearance of a quorum" after having called the House to order, a point of order of no quorum could be made after the prayer and before the approval of the Journal when the House convened, notwithstanding the provisions of clause 6(e), Rule XV, allowing such points of order in the House only when the Speaker had put the pending motion or proposition to a vote (Oct. 3, 1977, p. 31987); prior practice had permitted a point of no quorum prior to the reading of the Journal (IV, 2733; VI, 625) or during its reading (VI, 624). In the 96th Congress, the House eliminated the necessity for the appearance of a quorum before the Speaker's announcement of his approval of the Journal (H. Res. 5, Jan. 15, 1979, pp. 7, 16). The current rule specifies that it is not in order to make or entertain a point of order that a quorum is not present unless the Speaker has put the pending motion or proposition to a vote (Rule XV, clause 6(e) as added in the 95th Congress). If a quorum fails to respond on a motion incident to the approval, reading or amendment of the Journal, and there is an objection to the vote, a call of the House under Rule XV, clause 4, is automatic (Feb. 2, 1977, pp. 3342-3). Pursuant to clause 5(b)(1) of this Rule as amended in the 98th Congress, the Speaker may postpone until a later time on the same legislative day a record vote on the Chair's approval of the Journal (H. Res. 5, Jan. 3, 1983, p. 34). Where the House adjourns on consecutive days without having approved the Journal of the previous days' proceedings, the Speaker puts the question de novo in chronological order as the first order of business on the subsequent day (Nov. 3, 1987, p. ——).

Prior to the 92d Congress, the reading of the Journal was mandatory, could not be dispensed with except by unanimous consent (VI, 625; Sept. 19, 1962, p. 19941), or by motion to suspend the rules (IV, 2747-2750). It had to be read in full when demanded by any Member (IV, 2739–2741; VI, 627, 628; Feb. 22, 1950, p. 2152) but the demand came too late after the Journal was approved (VI, 626). Under the rule as in effect before the 95th Congress, pending the Speaker's announcement of his approval of the Journal and prior to approval by the House, any Member could offer a privileged, non-debatable motion that the Journal be read (Apr. 23, 1975, p. 11482).

The Journal of the last day of a session is not read on the first day of the next session (IV, 2742). No business is transacted before the reading (IV, 2751–2756; VI, 629, 630, 637); not even consideration of a conference report (VI, 630). However, the motion to adjourn (IV, 2757; Speaker Wright, Nov. 2, 1987, p. ——) and the swearing in of a Member (I, 172) could take precedence, and a question of privilege relating to a breach of privilege (such as an assault) occurring during the reading or approval of the Journal may interrupt its reading or approval (II, 1630).

Once begun, the reading may not be interrupted, even by business so highly privileged as a conference report (V, 6443; Rule XXVII); but a parliamentary inquiry (VI, 624), or an arraignment of impeachment may interrupt (VI, 469); and in cases of disorder the reading has been suspended (II, 1630; IV, 2759).

Under the prior rule, the Speaker's examination and approval of the Journal was preliminary to the reading and did not preclude subsequent amendment by the House itself (IV, 2734–2738). If the Speaker's approval of the Journal is rejected, a motion to amend takes precedence of a motion to approve (IV, 2760; VI, 633), but the motion is not admissible after the previous question is demanded on the motion to approve (IV, 2770; VI, 633; VIII, 2684; Sept. 13, 1965, p. 23600).

§ 622. Speaker preserves order on floor and in galleries and lobby.

2. He shall preserve order and decorum, and, in case of disturbance or disorderly conduct in the galleries, or in the lobby, may cause the same to be cleared.

This clause was adopted in 1789 and amended in 1794 (II, 1343).

The Speaker may name a Member who is disorderly, but may not, of his own authority, censure or punish him (II, 1344, 1345; VI, 237). In cases of extreme disorder in Committee of the Whole the Speaker has taken the chair and restored order without a formal rising of the committee (II, 1348, 1648–1653, 1657); and the Speaker, as an exercise of his authority under this clause, has on his own initiative declared the House in recess in an emergency (83d Cong., 2d Sess., p. 2324). The authority to have the galleries cleared has been exercised but rarely (II, 1352; Speaker Albert, Jan. 18, 1972, p. 9). On one occasion, acting on the basis of police reports and other evidence, the Speaker ordered the galleries cleared before the House convened (May 10, 1972, p. 16576) and then informed the House of his decision. In an early instance the Speaker ordered the arrest of a person in the gallery; but this exercise of power was questioned (II, 1605). While Members are permitted to use exhibits such as charts during debate (subject to the permission of the House under Rule XXX), the Speaker may direct the removal of a chart from the well of the House which is not being utilized during debate (Apr. 1, 1982, p. 6304). The Speaker's responsibility to preserve decorum requires that he disallow the use of exhibits in debate which would be demeaning to the House; thus he may inquire as to a Member's intentions, as to the use of exhibits, before conferring recognition to address the House (Mar. 21, 1984, p. ——).

Questions having been raised concerning proper attire for Members in the Chamber (thermostat controls having been raised to comply with a Presidential directive conserving energy in the summer months), the Speaker announced he considered traditional attire for Members appropriate, including coats and ties for male Members and appropriate attire for female Members, but that he would recognize for a question of privileges of the House to relax such standards. The Speaker also requested a Member in violation of those standards to remove himself from the Chamber and appear in appropriate attire, and refused to recognize such Member until he did so (Speaker O'Neill, July 17, 1979, p. 11461). The House later agreed to a resolution raising a question of the privileges of the House requiring Members to wear proper attire as determined by the Speaker (July 17, 1979, pp. 186-7).

Recognition is within the discretion of the Chair, and in order to uphold order and decorum in the House as required under clause 2, Rule I, the Speaker may deny a Member recognition to address the House under the "one-minute rule" (Aug. 27, 1980, p. 23456), and may deny further recognition to a Member proceeding out of order beyond the one-minute for which recognized (Mar. 16, 1988, p. ——).

§ 623. Speaker's control of the Hall, corridors, and rooms.

3. He shall have general control, except as provided by rule of law, of the Hall of the House, and of the corridors and passages and the disposal of the unappropriated rooms in that part of the Capitol assigned to the use of the House, until further order.

This clause was adopted in 1811 and amended in 1824, 1885 (II, 1354), and April 5, 1911 (VI, 261).

Control of the appropriated rooms in the House portion of the Capitol is exercised by the House itself (V, 7273-7279), but repairs and alterations have been authorized by statute (V, 7280–7281: 59 Stat. 472). On January 15, 1979, the Speaker announced his directive concerning free access by Members in the corridors approaching the chamber (p. 19).

§ 624. Speaker's signature to acts, warrants, subpoenas, etc.; and decision of questions of order subject to appeal.

4. He shall sign all acts, addresses, joint resolutions, writs, warrants, and subpoenas of, or issued by order of, the House, and decide all questions of order, subject to an appeal by any Member, on which appeal no Member shall speak more than once, unless by permission of the House. The Speaker is authorized to sign enrolled bills whether or not the House is in session.

The portion of this rule relating to decisions on points of order was adopted in 1789 and amended in 1811; and the portion relating to the signing of acts, etc., was adopted in 1794 (II, 1313). The last sentence of this clause, granting the Speaker standing authority to sign enrolled bills, even if the House is not in session, was added in the 97th Congress (H. Res. 5, Jan. 5, 1981, pp. 98–113).

§ 625. Signing of enrolled bills.

Enrolled bills are signed first by the Speaker (IV, 3429). He has declined to sign in the absence of a quorum (IV, 3458), or pending a motion to reconsider (V, 5705); and the report of a committee as to the accuracy of the enrollment is first submitted, unless, as in rare instances only, the House by consent waives the requirement (IV, 3452). In cases of error the House has permitted the Speaker's signature to be vacated (IV, 3453, 3455–3457; VII, 1077–1080). Under the modern practice, the Committee of the Whole may rise informally without motion to enable the Speaker to assume the Chair and to sign an enrolled bill and lay it before the House (Jan. 28, 1980, p. 888; Apr. 30, 1980, p. 9505).

§ 626. Signing of warrants, subpoenas, etc.

Warrants, subpoenas, etc., during recesses of Congress are signed only by authority specially given (III, 1753, 1763, 1806). The issuing of warrants must be specially authorized by the House (I, 287) or pursuant to a standing rule (Rule XV, clause 4, § 774a). Instance wherein the House authorized the Speaker to issue warrant for the arrest of absentees (VI, 638). The Speaker also signs the articles, replications, etc., in impeachments (III, 2370, 2455); and certifies cases of contumacious witnesses for action by the courts (III, 1691, 1769; VI, 385; 2 U.S.C. 194). A subpoena validly issued by a committee authorized by the House under clause

2(m), Rule XI to issue subpoenas need only be signed by the chairman of that committee, whereas when the House issues an order or warrant, the Speaker must issue the summons under his hand and seal, and it must be attested by the Clerk (III, 1668; see H. Rept. 96-1078, p. 22).

§ 627. Practice governing the Speaker in deciding points of order.

The Speaker may require that a question of order be presented in writing (V, 6865). He is not required to decide a question not directly presented by the proceedings (II, 1314), and it is not his duty to decide a hypothetical question (VI, 249, 253), as the germaneness of an amendment not yet offered (Dec. 12, 1985, p. 36167). Debate being for his information is within his discretion (V, 6919, 6920; VIII, 3446-3448), and Members must address the Chair and cannot engage in "colloquies" on the point of order (Sept. 18, 1986, p. ——). He is constrained to give precedent its proper influence (II, 1317; VI, 248). While the Chair will normally not disregard a decision of the Chair previously made on the same facts (IV, 4045), such precedents may be examined and reversed where shown to be erroneous (IV, 4637; VI, 639; VII, 849; VIII, 2794, 3435; Sept. 12, 1986, p. ——). Preserving the authority and binding force of parliamentary law is as much the duty of each Member of the House as it is the duty of the Chair (VII, 1479). The Speaker's decisions are recorded in the Journal (IV, 2840, 2841), but responses to parliamentary inquiries are not so recorded (IV, 2842). Questions arising during a division are decided peremptorily (V, 5926), and when they arise out of any other question must be decided before that question (V, 6864). The Speaker may recognize and respond to a parliamentary inquiry although the previous question may have been demanded (Speaker pro tempore Snell, Mar. 27, 1926, p. 6469). While the Chair may in his discretion recognize Members for parliamentary inquiries when no other Member is occupying the floor for debate, when another Member has the floor he must yield for a parliamentary inquiry (Oct. 1, 1986, p. ——). In rare instances the Speaker declines to rule until he has taken time for examination of the question (III, 2725; VI, 432; VII, 2106; VIII, 2174, 2396, 3475). In interpreting the language of a special order adopted by the House, the Chair will not look behind the language of the resolution itself where noambiguity exists therein(June 181986,p. ——). He rarely submits a question directly to the House for its decision (IV, 3173, 3282, 4930; V, 5014, 5323, 6701; VI, 49; Speaker Longworth, Apr. 8, 1926, p. 7148), or of his own initiative raises and submits a question (II, 1277, 1315, 1316; VIII, 3405). Even as to questions of privilege he usually, in later practice, makes a preliminary decision instead of submitting the question directly to the House (III, 2648, 2649, 2650, 2654, 2678; Speaker Wright, Mar. 11, 1987, p. ——). He does not decide on the legislative or legal effect of propositions (II, 1274, 1323, 1324; VI, 254; VII, 2112; VIII, 2280, 2841; Mar. 16, 1983, p. 5669), on the consistency of proposed action with other acts of the House (II, 1327-1336; VII, 2112, 2136; VIII, 3237, 3458), whether Members have abused leave to print (V, 6998-7000; VIII, 3475), on the constitutional powers of the House (II, 1255, 1318–1320, 1490; IV, 3507; VI, 250, 251; VIII, 2225, 3031, 3071, 3427; July 21, 1947, pp. 9522, 9551; May 13, 1948, p. 5817), on the propriety or expediency of a proposed course of action (II, 1275, 1325, 1326, 1337; IV, 3091–3093, 3127); and he does not consider contingencies which may arise in the future (VII, 1409), such as ruling on the germaneness of an amendment not yet offered (May 5, 1988, p. ——; May 18, 1988, p. ——); or take cognizance of complaints relating to pairs (VIII, 3087). He passes on the validity of conference reports (V, 6409, 6410, 6414–6416; VIII, 3256, 3264), but not on the sufficiency of the accompanying statements as distinguished from the form (V, 6511–6513), or on the question of whether a conference report violates instructions of the House (V, 6395; VIII, 3246). As to reports of committees, he does not decide as to their sufficiency (II, 1339, IV, 4653), or usually as to whether or not the committee has followed instructions (II, 1338; IV, 4404, 4689); or on matters arising in Committee of the Whole (V, 6927, 6928, 6932–6937; Dec. 12, 1985, p. 36173); but he has decided as to the validity of the authorization of a report (IV, 4592, 4593). Questions concerning informal guidelines of the Committee on Rules for advance submission of amendments for possible inclusion under a "modified closed" rule may not be raised under the guise of parliamentary inquiries, since the Chair would not be called upon to interpret any rule of the House (May 5, 1988, p. ——).

§ 628. Practice, governing appeals.

The right of appeal insures the House against the arbitrary control of the Speaker and can not be taken away from the House (V, 6002); but appeals may not be entertained from responses to parliamentary inquiries (V, 6955; VIII, 3457); when dilatory (V, 5715–5722; VIII, 2822); from decisions on recognition (II, 1425–1428; VI, 292; VIII, 2429, 2646, 2762); from decisions on dilatoriness of motions (V, 5731); while another is pending (V, 6939–6941); on a question on which an appeal has just been decided (IV, 3036; V, 6877); between the motion to adjourn and vote thereon (V, 5361); during a call of the yeas and nays (V, 6051); from the count by the Chair of the number rising to demand tellers (VIII, 3105) or a recorded vote (June 24, 1976, p. 20390) or the yeas and nays (Sept. 12, 1978, p. 28950) or rising to object to a request under Rule XI, clause 2(ii) that a committee have permission to sit under the five-minute rule (Sept. 12, 1978, p. 28984); from the Chair's count of a quorum (July 24, 1974, p. 25012); from decision refusing recapitulation of a vote (VIII, 3128); and from the Speaker's refusal under clause 6(e), Rule XV, to entertain a point of order of no quorum when a pending question has not been put to a vote (Sept. 16, 1977, p. 29594). The Speaker may vote to sustain his own decision (IV, 4569; V, 5686, 6956, 6957).

The appeal may be debated (VII, 1608; VIII, 2347, 2375, 3453–3455); unless the motion is made to lay on the table (V, 5301; Mar. 16, 1988, p. ——), or the previous question is ordered (V, 5448, 5449). An appeal from a decision relating to the priority of business (V, 6952), or irrelevancy of debate (V, 5056–5063) is not debatable. In practice a Member favorable to the ruling usually moves to lay the appeal on the table, thus shutting off debate (e.g., Oct. 8, 1968, p. 30215). A motion to postpone an appeal has been held in order (VIII, 2613). Debate in the House is under the hour rule (V, 4978), but may be closed at any time by the adoption of a motion for the previous question (V, 6947); or to lay on the table (VIII, 3453). Debate on an appeal in the Committee of the Whole is under the five-minute rule (VII, 1608; VIII, 2347, 2556a, 3454, 3455), and may be closed by motion to close debate or to rise and report (V, 6947, 6950; VIII, 3453).

§ 629. Putting of the question by the Speaker.

5. (a) He shall rise to put a question, but may state it sitting; and shall put questions in this form, to wit: "As many as are in favor (as the question may be), say 'Aye'."; and after the affirmative voice is expressed, "As many as are opposed, say 'No'."; if he doubts, or a division is called for, the House shall divide; those in the affirmative of the question shall first rise from their seats, and then those in the negative, if he still doubts, or a count is required by at least one-fifth of a quorum, he shall name one or more from each side of the question to tell the Members in the affirmative and negative; which being reported, he shall rise and state the decision. However, if any Member requests a recorded vote and that request is supported by at least one-fifth of a quorum, such vote shall be taken by electronic device, unless the Speaker in his discretion orders clerks to tell the names of those voting on each side of the question, and such names shall be recorded by electronic device or by clerks, as the case may be, and shall be entered in the Journal, together with the names of those not voting. Members shall have not less than fifteen minutes to be

§ 630a. Voting viva voce, by division, by tellers, by electronic device.

counted from the ordering of the recorded vote or the ordering of clerks to tell the vote.

This paragraph was first adopted in 1789 and its present form reflects the revisions and amendments of 1860, 1880 (II, 1311), and 1972 (H. Res. 1123, October 13, 1972, pp. 36005–08). From January 22, 1971 (when H. Res. 5 of the 92d Congress was adopted incorporating provisions in the Legislative Reorganization Act of 1970, 84 Stat. 1140), until October 13, 1972, this rule provided a two-step procedure for ordering "tellers with clerks" prior to installation of the electronic voting system, and for the first time permitted Members to be recorded on votes in Committee of the Whole. The last two sentences of this paragraph permitting a single-step "recorded vote" and voting by means of electronic device installed in the Chamber in 1972, were contained in H. Res. 1132 on October 13, 1972, and were made effective by adoption of the rules of the 93d Congress on January 3, 1973 (H. Res. 6, pp. 26–7).

The motion as stated by the Chair in putting the question and not as stated by the Member in offering the motion, is the proposition voted on (VI, 247). It is not in order for a Member having the floor in debate to conduct a "straw vote" or otherwise ask for a show of support for a proposition. See Procedure, ch. 30, § 3.1.

One of the suppositions on which parliamentary law is founded is that the Speaker will not betray his duty to make an honest count on a division (V, 6002) and the integrity of the Chair in counting a vote should not be questioned in the House (VIII, 3115; July 11, 1985, p. 18550), and the Chair's count of Members demanding a recorded vote is not appealable (June 24, 1976, pp. 20390–1). A vote by division takes no cognizance of Members present but not voting, and consequently the number of votes counted by division has no tendency to establish a lack of a quorum (June 29, 1988, p. ——).

In a full House (total membership of 435), tellers or a recorded vote are ordered by 44; in Committee of the Whole tellers are ordered by 20 but a recorded vote by 25 (Rule XXIII, clause 2(b), as added in the 96th Cong. (H. Res. 5, Jan. 15, 1979, pp. 7, 16)), rather than 20 in both cases as in prior practice (V, 5986; Dec. 20, 1974, p. 41793). The right to demand tellers is not precluded by the fact that the yeas and nays have been refused (V. 5998; VIII, 3103), that a point of no quorum has been made against a division vote on the question on which tellers are requested (VIII, 3104, by a point of no quorum and a call of the House following a division vote on the question on which tellers are demanded (Sept. 25, 1969, pp. 27041–42), or by the intervention of a quorum call following the refusal of the Committee of the Whole to order a recorded vote (Feb. 27, 1974, p. 4447). But only one request for a recorded vote on a pending question is in order (Jan. 21, 1976, p. 508), and a demand for a recorded vote cannot interrupt a vote by division which is in progress (June 10, 1975, p. 18048). While a request for a recorded vote once denied may not be renewed, the request remains pending where the Chair interrupts the count of Members standing in favor of the request in order to count for a quorum pursuant to a point of order that a quorum is not present (Aug. 5, 1982, pp. 19658, 19659). Recognition by the Chair for a parliamentary inquiry immediately following the Chair's announcement of a voice vote on an amendment is not such intervening business as to prevent a demand for a recorded vote thereon where the Chair has not announced the final disposition of the amendment (May 23, 1984, p. ——; July 26, 1984, p. ——). Where a division vote is demanded on a proposition in the House and the vote thereon is then postponed pursuant to paragraph (b) of this clause a division may again be demanded when the question is put de novo on the proposition as unfinished business (since a demand for a division may be made by any Member), whereas a demand for the yeas and nays if refused by the House may not be renewed (Mar. 18, 1980, p. 5739–40). Ordinarily, however, only one demand for a vote by division on a pending question is in order (July 26, 1984, p. ——).

In Committee of the Whole, a request for a recorded vote on an amendment once denied may not be renewed even where the absence of a quorum is disclosed immediately following the refusal to order a recorded vote (June 6, 1979, p. 13648; Oct. 25, 1983, p. ——). It is the duty of the Member to serve as teller when appointed by the Chair (V, 5987); but when Members of one side have declined, the second teller has been appointed from the other side (V, 5988) or the position has been left vacant (V, 5989). A Delegate may be appointed teller (II, 1302). Where there is a doubt as to the count by tellers the Chair may order the vote taken again (V, 5991; July 19, 1946, p. 9466), but this must be done before he has announced the result (V, 5993–5995; VIII, 3098). The Chair may be counted without passing between the tellers (V, 5996, 5997; VIII, 3100, 3101).

§ 630b. Ordering of tellers and taking of the vote.

(b)(1) On any legislative day whenever a recorded vote is ordered or the yeas and nays are ordered, or a vote is objected to under clause 4 of Rule XV on any of the following questions, the Speaker may, in his discretion, postpone further proceedings on each such question to a designated time or place in the legislative schedule on that legislative day in the case of the question of agreeing to the Speaker's approval of the Jour-

§ 631. Postponing rollcall votes on passage.

nal, or within two legislative days, in the case of the other questions listed herein:

(A) the question of passing bills;

(B) the question of adopting resolutions;

(C) the question of ordering the previous question on privileged resolutions reported from the Committee on Rules;

(D) the question of agreeing to conference reports;

(E) the question of agreeing to motions to suspend the rules; and

(F) the question of agreeing to motions to instruct conferees as provided in clause 1(c) of rule XXVIII: Provided, however, That said question shall not be put if the conference report on that measure has been filed in the House.

(2) At the time designated by the Speaker for further consideration of proceedings postponed under subparagraph (1), the Speaker shall put each question on which further proceedings were postponed, in the order in which that question was considered.

(3) At any time after the vote has been taken on the first question on which the Speaker has postponed further proceedings under this paragraph, the Speaker may, in his discretion, reduce to not less than five minutes the period of time within which a rollcall vote by electronic device on the question may be taken without any intervening business on any or all of the additional questions on which the Speaker has

postponed further proceedings under this paragraph.

(4) If the House adjourns before all of the questions on which further proceedings were postponed under this paragraph have been put and determined, then, on the next following legislative day the unfinished business shall be the disposition of all such questions, previously undisposed of, in the order in which the questions were considered.

Paragraph (b) was added in the 96th Congress (H. Res. 5, Jan. 15, 1979, p. 7), and subparagraph (b)(1) was amended in the 97th Congress (H. Res. 5, Jan. 5, 1981, pp. 98–113) to place all authority for the postponing of further proceedings on certain questions into Rule I. This consolidation was accomplished with the addition of the authority to postpone further proceedings on reports from the Committee on Rules (formerly clause 4(e), Rule XI) and the authority to postpone further proceedings on motions to suspend the rules and pass bills or resolutions (formerly clause 3(b), Rule XXVII). The authority for the Speaker to postpone further proceedings on agreeing to his approval of the Journal until later that legislative day was added to subparagraph (b)(1) in the 98th Congress (H. Res. 5, Jan. 3, 1983, p. 34). The authority for the Speaker to postpone further proceedings on motions to instruct conferees after 20 calendar days in conference was added to subparagraph (b)(1) in the 101st Congress (H. Res. 5, Jan. 3, 1989, p. ——), along with the provision that a question so postponed not be put if the conferees sooner file their report. The Speaker first exercised his authority to postpone a rollcall vote on the approval of the Journal on Nov. 10, 1983 (p. ——). But on questions not enumerated in this paragraph, such as the motion to instruct conferees, unanimous consent is required to permit the Speaker to postpone such record votes (Oct. 6, 1986, p. ——).

Pursuant to clause 6(e), Rule XV, prohibiting a point of order of no quorum unless the Speaker has put the pending proposition to a vote, the Speaker announces, after postponing a vote on a motion to suspend the rules where objection has been made to the vote on the grounds that quorum is not present, that the point of order is considered as withdrawn, since the Chair is no longer putting the question (May 16, 1977, p. 14785). At the conclusion of debate on all motions to suspend the rules on a legislative day, the Speaker announces that he will put the question on each motion on which further proceedings have been postponed—either de novo if objection to the vote has been made under clause 4, Rule XV or for a "yea and nay" or recorded vote if previously ordered by the House—in the order in which the motions had been entered (June 4, 1974, pp. 17521-47). Once the Speaker has postponed rollcall votes to occur at a designated place in the legislative schedule, he may subsequently redesignate the time when the votes will be taken within the appropriate period (June 6, 1984, p. ——; Oct. 3, 1988, p. ——). Following the first postponed vote on motions to suspend the rules, the Speaker may in his discretion reduce to not less than 5 minutes the time for taking votes on any or all of the subsequent motions on which votes have been postponed (June 4, 1974, p. 17547). Having clustered record votes on motions to suspend the rules and then having clustered record votes on passage of other measures considered immediately after debate on the suspension motions, the Speaker may, pursuant to this clause, conduct all the postponed votes in one sequence and reduce to five minutes the time for all electronic votes after the first suspension vote (May 17, 1983, p. ——). But the Chair may decline, in his discretion, to recognize for a unanimous-consent request to reduce to five minutes the first vote in the series, since the bell and light system would not give adquate notice of the initial five-minute vote (Oct. 8, 1985, p. 26666). But where a series of votes has been postponed to a subsequent day pursuant to this clause, to occur following a fifteen-minute vote on another measure not a part of that series, the vote on the first postponed measure may be reduced to five minutes only by unanimous consent (May 24, 1983, p. ——). By unanimous consent waiving the five-minute minimum set by paragraph (b)(3) of this clause, the House has authorized the Speaker to put remaining postponed questions to two-minute electronic votes (Oct. 4, 1988, p. ——). The Speaker may "cluster" postponed votes on a motion to suspend the rules and on adoption of a resolution in the order in which those questions were considered on the preceding day (July 19, 1983, p. ——). The requirement that the Speaker put each question on motions to suspend the rules in the order in which postponed, does not prevent the Speaker from entertaining a unanimous-consent request for the consideration of a similar Senate measure following passage of a House bill and prior to the next postponed vote (Feb. 15, 1983, p. 2175). Since a resolution raising a question of the privileges of the House takes precedence over a motion to suspend the rules, it may be offered and voted on between motions to suspend the rules on which the Speaker has postponed record votes until after debate on all suspensions (May 17, 1983, p. ——).

§ 632. The Speaker's vote. Tie vote.

6. He shall not be required to vote in ordinary legislative proceedings, except where his vote would be decisive, or where the House is engaged in voting by ballot; and in cases of a tie vote the question shall be lost.

This clause was adopted in 1789, with amendment in 1850 (V, 5964), and 1911.

The Speaker's name is not on the roll from which the yeas and nays are called (V, 5970) and is not called unless on his request (V, 5965). It is then called at the end of the roll (V, 5965; VIII, 3075), the Clerk calling him by name. The Chair may vote to make a tie and so decide a question in the negative, as he may vote to break a tie and so decide a question in the affirmative (VIII, 3100; August 14, 1957, p. 14783). The duty of giving a decisive vote may be exercised after the intervention of other business, or after the announcement of the result or on another day, if a correction of the roll shows a condition wherein his vote would be decisive (V, 5969, 6061–6063; VIII, 3075); and he also exercises the right to withdraw his vote in case a correction shows it to have been unnecessary (V, 5971). The Speakers have the same right as other Members to vote (V, 5966, 5967) but rarely exercise it (V, 5964, footnote), and the Chair may not vote twice (V, 5964). The Chair may be counted on a vote by tellers (V, 5996, 5997; VIII, 3100, 3101).

§ 633. Speaker pro tempore.

7. He shall have the right to name any Member to perform the duties of the Chair, but such substitution shall not extend beyond three legislative days, except that with the permission of the House he may name a Member to act as Speaker pro tempore only to sign enrolled bills and joint resolutions for a period of time specified in the designation, notwithstanding any other provision of this clause: *Provided, however,* That in case of his illness, he may make such appointment for a period not exceeding ten days, with the approval of the House at the time the same is made; and in his absence and omission to make such appointment, the House shall proceed to elect a Speaker pro tempore to act during his absence.

This clause was adopted in 1811, and amended in 1876 (II, 1377) and in 1920 (VI, 263).

§ 634a. Election, oath, and designation of Speaker pro tempore.

The right of the House to elect a Speaker pro tempore in the absence of the Speaker was exercised before the rule was adopted (II, 1405), although the House sometimes preferred to adjourn (I, 179). An elected Speaker pro tempore in the earlier practice was not sworn (I, 229; II, 1386); but the Senate and sometimes the President were notified of his election (II, 1386–1389, 1405–1412; VI, 275). On August 31, 1961, p. 17765, the House adopted H. Res. 445, electing Hon. John W. McCormack as Speaker pro tempore in the absence and terminal illness of Speaker Rayburn. The resolution provided that the Clerk notify the President and the Senate. The Chairman of the Democratic Caucus then administered the oath. Elected Speakers pro tempore have signed enrolled bills, appointed committees, etc., functions not exercised by a Speaker pro tempore by designation (II, 1399, 1400, 1404; VI, 274, 277, Sept. 21, 1961, p. 20572; June 21, 1984, p. ——), but the clause was amended in the 99th Congress (H. Res. 7, Jan. 3, 1985, p. 393) to authorize the Speaker, with House approval, to designate a Speaker pro tempore to sign enrolled bills.

A call of the House may take place with a Speaker pro tempore in the chair (IV, 2989), and the Speaker pro tempore may issue his warrant for the arrest of absent members under a call of the House (VI, 688). When the Speaker is not present at the opening of a session, he designates a Speaker pro tempore in writing (II, 1378, 1401), but he does not always name in open House the Member whom he calls to the chair temporarily during the day's sitting (II, 1379, 1400). A Speaker pro tempore sometimes designates another Speaker pro tempore (II, 1384; VI, 275). Members of the minority have been called to the chair on occasions of ceremony (II, 1383; VI, 270; Jan. 31, 1951, p. 779), but in rare instances on other occasions (II, 1382, 1390; III, 2596; VI, 264).

§ 634b. Travel authority.

8. He shall have the authority to designate any Member, officer or employee of the House of Representatives to travel on the business of the House of Representatives, as determined by him, within or without the United States, whether the House is meeting, has recessed or has adjourned, and all expenses for such travel may be paid for from the contingent fund of the House on vouchers solely approved and signed by the Speaker. However, expenses may not be paid from the contingent fund for travel of a Member after the date

of the general election of Members in which the Member has not been elected to the succeeding Congress, or in the case of a Member who is not a candidate in such general election, the earlier of the date of such general election or the adjournment sine die of the last regular session of the Congress.

This clause was adopted on Jan. 14, 1975 (H. Res. 5, 94th Cong., p. 20), and the last sentence was added on Mar. 2, 1977 (H. Res. 287, 95th Cong., p. 5941). See also § 719(b), infra, for discussion of the Speaker's authority under § 502(b) of the Mutual Security Act of 1954, as amended (22 U.S.C. 1754) to authorize use of counterpart funds for Members and employees for foreign travel, except where authorized by the chairman of the committee for members and employees thereof.

§ 634c. Broadcasting of House proceedings.

9. (a) He shall devise and implement a system subject to his direction and control for closed circuit viewing of floor proceedings of the House of Representatives in the offices of all Members and committees and in such other places in the Capitol and the House Office Buildings as he deems appropriate. Such system may include other telecommunications functions as he deems appropriate.

(b)(1) He shall devise and implement a system subject to his direction and control for complete and unedited audio and visual broadcasting and recording of the proceedings of the House of Representatives. He shall provide for the distribution of such broadcasts and recordings thereof to news media, the storage of audio and video recordings of the proceedings, and the closed captioning of the proceedings for hearing-impaired individuals.

(2) All television and radio broadcasting stations, networks, services, and systems (including cable systems) which are accredited to the House Radio and Television Correspondents' Galleries, and all radio and television correspondents who are accredited to the Radio and Television Correspondents' Galleries shall be provided access to the live coverage of the House of Representatives.

(3) No coverage made available under this clause nor any recording thereof shall be used for any political purpose.

(4) Coverage made available under this clause shall not be broadcast with commercial sponsorship except as part of bona fide news programs and public affairs documentary programs. No part of such coverage or any recording thereof shall be used in any commercial advertisment.

(c) He may delegate any of his responsibilities under this clause to such legislative entity as he deems appropriate.

This clause was adopted on Jan. 15, 1979 (H. Res. 5, 96th Congress, p. 7). The requirement that the televised broadcasts of the proceedings of the House be closed captioned for hearing-impaired individuals was added to the second sentence of paragraph (b)(1) in the 101st Congress (H. Res. 5, Jan. 3, 1989, p. ——).

On Mar. 15, 1977 (pp. 7608–12) the House adopted H. Res. 404, considered as a question of the privileges of the House, directing the Committee on Rules to investigate the impact on the safety, dignity and integrity of House proceedings, of a test authorized by the Speaker under his general control over the Hall of the House for the audiovisual broadcast of House proceedings within the Capitol and House Office Buildings. The resolution directed the Committee on Rules to report to the House at the earliest practicable date its findings and recommendations, including whether such coverage should be made available to the public. The Committee reported and the House adopted H. Res. 866 (Oct. 27, 1977, pp. 35425–37) which (1) authorized the Speaker to establish a closed-circuit system for in-House broadcasting of House proceedings; (2) directed the Committee on Rules to study methods for providing complete audio and visual broadcasting of House proceedings and to report to the House thereon; and (3) directed the Speaker after receipt of the committee's report to establish a system subject to his direction and control for audio and visual broadcast and recording of House proceedings and to provide for distribution and access to the news media. The Speaker, after receipt of said report (H. Rept. 95-881, Feb. 15, 1978), directed implementation of full audio coverage, with distribution to the media, on June 8, 1978 (p. 16746). Public Law 95-391 (the Legislative Branch Appropriation Bill for fiscal year 1979) contained the following proviso in section 306 relative to the broadcasting of House proceedings: "No funds in this bill may be used to implement a system for televising and broadcasting the proceedings of the House pursuant to House Resolution 866, Ninety-Fifth Congress, under which the TV cameras in the Chamber purchased by the House are controlled and operated by persons not in the employ of the House." Pursuant to his authority under this clause, the Speaker directed the Clerk in the 98th Congress to immediately implement periodic wide-angle television coverage of all "special-order" speeches at the end of legislative business (with captions at the bottom of the screen indicating that legislative business has been completed) (May 10, 1984, p. ——) but not during "interim" special orders (Dec. 19, 1985, p. 38106). In the 99th Congress, the House adopted a resolution, raised as a question of the privileges of the House, authorizing and directing the Speaker to provide for the audio and visual broadcast coverage of the chamber while Members are voting (H. Res. 150, Apr. 30, 1985, p. 9821). Although paragraph (b)(1) of this clause requires complete and unedited broadcast coverage of the proceedings of the House has held (by tabling an appeal of a ruling of the Chair) that it does not require in-House microphone amplification of disorderly conduct by a Member following expiration of his recognition for debate (Mar. 16, 1988, p. ——).

§ 634d. Office of the Historian.

10. There is established in the House of Representatives an office to be known as the Office of the Historian of the House of Representatives.

This clause was added on Jan. 3, 1989 (H. Res. 5, 101st Congress, p. ——). See § 996a, infra.

RULE II.

ELECTION OF OFFICERS.

§635. Election of officers.

There shall be elected by a viva voce vote, at the commencement of each Congress, to continue in office until their successors are chosen and qualified, a Clerk, Sergeant-at-Arms, Doorkeeper, Postmaster, and Chaplain, each of whom shall take an oath to support the Constitution of the United States, and for the true and faithful discharge of the duties of his office to the best of his knowledge and ability, and to keep the secrets of the House; and each shall appoint all of the employees of his department provided for by law.

§636. Oath and duties of officers.

A rudimentary form of this rule was adopted in 1789, and was amended several times prior to 1880, when it assumed its present form (I, 187). The House having discarded a theory that the rules might be imposed by one House on its successor (V, 6743-6745), it follows that this rule is not operative at the organization. The House, by order or usage, elects its Speaker viva voce on a roll call (I, 204, 208); but the officers mentioned in the rule are usually chosen by resolution, which is not a viva voce election (I, 193, 194). A majority vote is required for the election of officers of both Houses of Congress (VI, 23). The act of 1789 provides that the oath of office shall be administered to the Speaker by any Member and by the Speaker to the Clerk (I, 130). The Speaker also at the same time administers the oath to the other elective officers (I, 81). The Member of longest continuous service has traditionally administered the oath to the Speaker (I, 131). However, on some occasions the Speaker has selected the Member to administer the oath (VI, 6, 7). The requirement that the officers be sworn to keep the secrets of the House is obsolete (I, 187).

The House has declined to interfere with the Clerk's power of removing his subordinates (I, 249). Employees under the clerk and other officers are to be assigned only to the duties for which they are appointed (V, 7232). The Sergeant-at-Arms having died, the Clerk was elected by the House to serve temporarily also as Sergeant-at-Arms without additional compensation (July 8, 1953, p. 8242). An amendment to the Legislative Reorganization Act of 1946 was enacted by the Eighty-third Congress (2 U.S.C. 75a–1) authorizing temporary appointments by the Speaker to fill vacancies in the offices of Clerk, Sergeant-at-Arms, Doorkeeper, Postmaster, or Chaplain. Lyle O. Snader, who was serving contemporaneously as Clerk and Sergeant-at-Arms, having resigned as Sergeant-at-Arms, the Speaker appointed a temporary Sergeant-at-Arms (January 6, 1954, p. 8). Other temporary appointments of a Sergeant-at-Arms were made pursuant to this authority in the 92d Congress (June 30, 1972, p. 23665) (and in the 96th Congress, Feb. 28, 1980, pp. 4349–50). The Speaker has also appointed a temporary Chaplain (March 14, 1966, p. 5712), a temporary Doorkeeper (Dec. 20, 1974, p. 41855) and a temporary Clerk (Nov. 15, 1975, p. 36901).

RULE III.

DUTIES OF THE CLERK.

§ 637. Clerk's duties at organization.

1. The Clerk shall, at the commencement of the first session of each Congress, call the Members to order, proceed to call the roll of Members by States in alphabetical order, and, pending the election of a Speaker or Speaker pro tempore, preserve order and decorum, and decide all questions of order subject to appeal by any Member.

This portion of the rule was framed in 1880, on a basis furnished by a rule of 1860 (I, 64), and amended in 1911.

As rules are not usually adopted until after the election of Speaker, this rule is not in force at the time of organization of a new House.

The procedure at organization does, however, follow a practice conforming to the terms of the rule (I, 81), although the House may depart from it.

In the 97th Congress, for example, the House did, by unanimous consent, permit the alphabetical rollcall of Members by States to be conducted by electronic device, to establish a quorum (Jan. 5, 1981, pp. 93–96).

While the Speaker ceases to be an officer of the House with the expiration of a Congress, the Clerk, by old usage, continues in a new Congress (I, 187, 188, 235, 244).

§ 638. The roll of Members-elect.

The roll of Members is made up by the Clerk from the credentials, in accordance with a provision of law (I, 14-62; VI, 2; 2 U.S.C. 26). A certificate of election in due form having been filed, the Clerk placed the name of the Member-elect on the roll, although he was subsequently advised that a State Supreme Court had issued a writ restraining the Secretary of State from issuing such certificate (Jan. 3, 1949, p. 8). The call of the roll may not be interrupted, especially by one not on that roll (I, 84), and a person not on the roll may not be recognized (I, 86). A motion to proceed to the election of Speaker is of higher privilege than a motion to correct the roll (I, 19-24). The House has declined to permit enrollment by the Clerk to be final as to prima facie right (I, 376, 589, 592).

The Clerk, in presiding before the election of Speaker, recognizes Members (I, 74).

The Members-elect have, before the election of Speaker or adoption of rules, authorized the Clerk and Sergeant-at-Arms of the last House to preserve order (I, 101); but usually such action has not been taken, although an occasion might arise to make it necessary (I, 76, 77).

§ 639. Clerk as presiding officer at organizations.

In early years the authority of the Clerk to decide questions of order pending the election of a Speaker was questioned (I, 65), and the Clerks often declined to make decisions (I, 68-72; V, 5325), although in 1855 occur exceptions to this theory (I, 91). But in 1860 the provisions of the present rule were adopted (I, 64), with a further rule that the rules of one House should apply in the organization of its successor (V, 6743-6747); and under this arrangement the Clerks have made rulings (I, 76, 77; VI, 623). In 1890 the theory that the rules of one House may be made binding on its successor was overthrown (V, 6747). In a case of vacancy arising after the adoption of rules, this rule would be operative and conclude questions as to the Clerk's authority. The Clerk having died, and in the absence of the Sergeant-at-Arms, the Doorkeeper of the 79th Congress presided at organization of the 80th Congress (Jan. 3, 1947, p. 33).

§ 640. Clerk furnishes a list of reports.

2. He shall make and cause to be printed and delivered to each Member, or mailed to his address, at the commencement of every regular session of Congress, a list of the reports which it is the duty of any officer or Department to make to Congress, referring to the act or resolution and page of the volume of the laws or Journal in which it may be contained, and placing under the name of

each officer the list of reports required of him to be made.

This rule was adopted in 1822 (I, 252).

§ 641. Clerk's duty as to Journal and documents.

3. He shall note all questions of order, with the decisions thereon, the record of which shall be printed as an appendix to the Journal of each session; and complete, as soon after the close of the session as possible, the printing and distribution to Members, Delegates, and the Resident Commissioner from Puerto Rico of the Journal of the House, together with an accurate and complete index; retain in the library at his office, for the use of the Members, Delegates, the Resident Commissioner from Puerto Rico and officers of the House, and not to be withdrawn therefrom, two copies of all the books and printed documents deposited there; send, at the end of each session, a printed copy of the Journal thereof to the executive and to each branch of the legislature of every State; deliver or mail to any Member, Delegate, or the Resident Commissioner from Puerto Rico an extra copy, in binding of good quality, of each document requested by that Member, Delegate, or the Resident Commissioner which has been printed, by order of either House of the Congress, in any Congress in which

he served; attest and affix the seal of the House to all writs, warrants, and subpoenas issued by order of the House, certify to the passage of all bills and joint resolutions, make or approve all contracts, bargains, or agreements relative to furnishing any matter or thing, or for the performance of any labor for the House of Representatives in pursuance of law or order of the House, keep full and accurate accounts of the disbursements of the contingent fund of the House, keep the stationery account of Members, Delegates, and the Resident Commissioner from Puerto Rico, and pay them as provided by law. He shall pay to the officers and employees of the House of Representatives the amount of their salaries that shall be due them.

§ 642. Attests and seals warrants, subpoenas, etc.

§ 643. Certifies passage of bills.

§ 644. Makes contracts.

§ 645. Keep contingent and stationery accounts.

§ 646. Pays officers and employees.

When the House issues an order or warrant, the Speaker must issue the summons under his hand and seal, and it must be attested by the Clerk; but when the power is granted to a committee to send for persons and papers under clause 2(m), Rule XI, a summons signed by the chairman of the committee is sufficient (III, 1668).

The Clerk is required to make certain reports on receipts and expenditures (2 U.S.C. 102, 103, 113), which are available to the public. But members of the public have no statutory or constitutional right to examine the actual financial records which are used in preparing such reports (Trimble *v.* Johnston, 173 F. Supp. 651, D.C. Cir., 1959).

4. He shall, in case of temporary absence or disability, designate an official in his office to sign all papers that may require the official signature of the Clerk of the House, and to do all other acts, except such as are provided for by statute,

§ 647a. Official to act as Clerk upon designation.

that may be required under the rules and practices of the House to be done by the Clerk. Such official acts, when so done by the designated official, shall be under the name of the Clerk of the House. The said designation shall be in writing, and shall be laid before the House and entered on the Journal.

In 1880 several rules, adopted at different periods from 1794 to 1846, were consolidated into this rule; which was amended in 1892 (I, 251) and January 3, 1953, p. 16. Section 3 was amended January 22, 1971, (H. Res. 5, pp. 140–44) to make it clear that the Delegate from the District of Columbia and the Resident Commissioner from Puerto Rico, as well as Members, are entitled to the services rendered the House by the Clerk. It was again revised in 1972 (H. Res. 1153, Oct. 13, 1972, pp. 36013–15), effective at the beginning of the 93rd Congress, to extend the services of the Clerk to all Delegates, including those provided for the Territories of Guam and the Virgin Islands by a law enacted in the 92nd Congress. Section 4 was adopted January 18, 1912 (VI, 25) and was amended January 3, 1953, p. 16.

Various other administrative duties, similar to those specified in this rule, are imposed on the Clerk by law (I, 253; Legislative Reorganization Act of 1946, 60 Stat. 812); and the law also makes it his duty to furnish stationery, blank books, etc., to the committees and officers of the House (V, 7322); to exercise discretionary authority as to reprinting of bills and documents (V, 7319); to receive the testimony taken in election contests (I, 703, 705; *see also* Federal Contested Election Act, Public Law 91–138, 83 Stat. 284), and to serve as an ex officio member of the Federal Election Commission established pursuant to Public Law 94–283; 2 U.S.C. 437c. Form of designation of a Clerk pro tempore (VI, 26). Instance of Clerk serving temporarily also as Sergeant-at-Arms (July 8, 1953, p. 8242).

§ 647b. Authority to receive messages.

5. The Clerk is authorized to receive messages from the President and from the Senate at any time that the House is not in session.

Clause 5, providing standing authority for the Clerk to receive messages, was added in the 97th Congress (H. Res. 5, Jan. 5, 1981, pp. 98–113). In the case of Kennedy *v.* Sampson, 511 F.2d 430 (D.C. Cir., 1974) (see § 113, supra, note to U.S. Const. Art. I, sec. 7, clause 2) a United States Court of Appeals held that a bill could not be pocket-vetoed by the

President during an "intrasession" adjournment of Congress to a day certain for more than three days, where the House of origin has made appropriate arrangements for the receipt of presidential messages during the adjournment. Under this clause the Clerk may receive messages during recesses as well as during adjournments (Dec. 22, 1987, p. ——).

§ 647c. Administration of vacant Member's office.

6. He shall supervise the staff and manage any office of a Member who is deceased, has resigned, or been expelled until a successor is elected and shall perform similar duties in the event that a vacancy is declared by the House in any congressional district because of the incapacity of the Member representing such district or other reason. Whenever the Clerk is acting as a supervisory authority over such staff, he shall have authority to terminate employees; and he may appoint, with the approval of the Committee on House Administration, such staff as is required to operate the office until a successor is elected. He shall maintain on the House payroll and supervise in the same manner staff appointed pursuant to section 800 of Public Law 91–665 (2 U.S.C. 31b–5) for sixty days following the death of a former Speaker.

This clause was added in the 98th Congress (H. Res. 5, Jan. 3, 1983, p. 34).

RULE IV.

DUTIES OF THE SERGEANT-AT-ARMS.

§ 648. Sergeant-at-Arms enforces authority of House.

1. It shall be the duty of the Sergeant-at-Arms to attend the House during its sittings, to maintain order under the direction of the Speaker or

Chairman, and, pending the election of a Speaker or Speaker pro tempore, under the direction of the Clerk, execute the commands of the House, and all processes issued by authority thereof, directed to him by the Speaker; and keep the accounts for the pay and mileage of Members, Delegates, and the Resident Commissioner from Puerto Rico, and pay them as provided by law.

§ 649. Disburses pay and mileage of Members.

This clause was adopted in 1789, with additions and amendments in 1838, 1877, 1890 (I, 257), April 5, 1911 (VI, 29) and 1971, Amendments adopted on January 22, 1971 (H. Res. 5, 92d Cong., p. 144) and on Oct. 13, 1972 (H. Res. 1153, 92d Cong., pp. 36013–15) clarified the responsibility of the Sergeant-at-Arms to keep the accounts for the pay and mileage of the Delegates from the District of Columbia, Guam, and the Virgin Islands and the Resident Commissioner from Puerto Rico as well as for Members. In the 94th Congress, the provisions of H. Res. 732, directing the Sergeant-at-Arms to enter into agreements with State officials, with the approval of the Committee on House Administration, to withhold State income taxes from the pay of each Member subject to such State income tax and requesting such withholding, were enacted into permanent law (90 Stat. 1448; 2 U.S.C. 60e–1b). The Sergeant-at-Arms is authorized to make payments from the contingent fund of the House, under rules prescribed by the Committee on House Administration, to defray the expenses of the funeral of a deceased Member of the House and the expenses of any delegation of Members of Congress duly appointed to attend (76 Stat. 686; 2 U.S.C. 124).

At the organization of the House in a new Congress the election of Speaker occurs before the adoption of rules. Therefore this rule is not in force at that time, and in case of necessity a special rule may be adopted conferring the authority, as was done in 1849 and 1859 (I, 101, 102).

Duties are imposed on the Sergeant-at-Arms by law (I, 258): Control of Capitol police; and the making up of the roll of Members-elect and presiding over the organization of a new Congress in case of vacancy in the office of Clerk, or the absence or disability of that officer (2 U.S.C. 26). The death of the Sergeant-at-Arms being announced, the House passed appropriate resolutions and adjourned as a mark of respect (VI, 32; July 8, 1953, p. 8263). The Clerk having died, and in the absence of the Sergeant-at-Arms, the Doorkeeper of the 79th Congress presided at organization of the 80th Congress (Jan. 3, 1947, p. 33). In the 83d Congress the Sergeant-at-Arms having died, the Clerk was elected to serve temporarily both as Clerk and Sergeant-at-Arms (July 8, 1953, p. 8242), and upon resignation by the Clerk from his additional position of Sergeant-at-Arms, the Speaker, pursuant to 2 U.S.C. 75a–1, appointed a temporary Sergeant-at-Arms (January 6, 1954, p. 8). The Sergeant-at-Arms having resigned in the 96th Congress, the Speaker appointed a temporary Sergeant-at-Arms pursuant to the statute (Feb. 28, 1980, pp. 4349–50). Instance where the Senate by resolution removed its Sergeant-at-Arms (VI, 37).

§ 650. The mace the symbol of the Sergeant-at-Arms' office.

2. The Symbol of his office shall be the mace, which shall be borne by him while enforcing order on the floor.

This clause was adopted in 1789 (II, 1346). An attempt to enforce order without the mace gave rise to a question of privilege (II, 1347). Extreme disorder arising on the floor, the Speaker directed the Sergeant-at-Arms to enforce order with the mace (VI, 258; VIII, 2530).

RULE V.

DUTIES OF THE DOORKEEPER.

§ 651. General duties of the Doorkeeper.

1. The Doorkeeper shall enforce strictly the rules relating to the privileges of the Hall and be responsible to the House for the official conduct of his employees.

This clause was adopted in 1838 and amended in 1880 (I, 260).

§ 652. Administrative duties of Doorkeeper.

The law also requires of the Doorkeeper certain administrative duties (I, 262) including certain housekeeping functions, the making of the roll of Members-elect in case the Clerk and the Sergeant-at-Arms are unable to perform that duty. Through his employees and appointees, he discharges various duties which are not enumerated in the law or in the rules; he announces at the door of the House all messengers from the President and the Senate (V, 6591) and, when requested by the Speaker, visitors to the floor of the House during joint meetings or joint sessions of the two houses; he superintends the House document room and the Publications Distribution System (the folding rooms), the cloakrooms of the House and the telephone service available to Members therein. He supervises the doormen, the pages that serve the House, and various other facilities available to Members.

The Clerk having died, the Sergeant-at-Arms being absent, the Doorkeeper of the 79th Congress presided at the organization of the 80th Congress (Jan. 3, 1947, p. 33).

In the 78th Congress, the House adopted a resolution on the death of the Doorkeeper and appointed a committee to attend his funeral (Jan. 28, 1943, pp. 421-422).

Before the 92d Congress, the Doorkeeper had been charged with the duty to inventory all furniture, books and other public property in committee rooms and other spaces. In the general revision of the rules effected by the Legislative Reorganization Act of 1970 (84 Stat. 1140) clause 2, containing this directive, was deleted since the duty of taking inventories and accounting for custody of furniture and other office equipment has been placed on the Clerk of the House by the House Office Building Commission (see 34 Stat. 1365).

§ 653. The Doorkeeper clears the floor of unauthorized persons.

2. He shall allow no person to enter the room over the Hall of the House during its sittings; and fifteen minutes before the hour of the meeting of the House each day he shall see that the floor is cleared of all persons except those privileged to remain, and kept so until ten minutes after adjournment.

This clause was adopted in 1869 with amendments in 1880 and 1890 (V, 7295). In the 97th Congress, the Speaker announced to the House his directive that the Doorkeeper strictly enforce the provisions of Rule XXXII relating to the privileges of the floor for House staff (Jan. 19, 1981, p. 402).

RULE VI.

DUTIES OF THE POSTMASTER.

§ 654. The Postmaster superintends the House post office.

The Postmaster shall superintend the post office in the Capitol and in the respective office buildings of the House for the accommodation of Representatives, Delegates, the Resident Commissioner from Puerto Rico, and officers of the House and shall be held responsible for the prompt and safe delivery of their mail.

This rule was adopted in 1838, with amendments in 1880 (I, 270), 1911 (VI, 34), 1971 (H. Res. 5, 92d Cong., p. 144), and 1972 (H. Res. 1153, 92d Cong., pp. 36013-15). The law requires the Postmaster to account at the first of each regular session for the Government property in his possession. Form of resolution adopted by the House on the death of its Postmaster (Dec. 31, 1948, p. 10269).

RULE VII.

DUTIES OF THE CHAPLAIN.

§ 655. Duties of the Chaplain.

The Chaplain shall attend at the commencement of each day's sitting of the House and open the same with prayer.

This rule was adopted in 1880 (I, 272), but the sessions of the House were opened with prayer from the first, and the Chaplain was an officer of the House before the adoption of the rule (I, 273-282). The Chaplain takes the oath prescribed for the officers of the House (VI, 31; Feb. 1, 1950, p. 1311). Prayer by the Chaplain is not business requiring the presence of a quorum and the Speaker declines to entertain a point of no quorum before prayer is offered (VI, 663; clause 6(a) (1), Rule XV). There is no precedent for prayer to be offered by the Chaplain during a continuous session of the House, absent an adjournment or recess (Apr. 22, 23, 1986, pp. ——). Form of resignation of the Chaplain (Feb. 28, 1921, p. 4075; Jan. 30, 1950, p. 1097). The election of a Chaplain emeritus (VI, 31; Jan. 30, 1950, p. 1095).

In the 97th Congress, the House adopted a privileged resolution asserting the constitutional prerogative of the House to establish the office of Chaplain and directing counsel for the Speaker and Chaplain to seek judicial review of a United States Court of Appeals decision (Murray v. Buchanan et al.) holding that no constitutional provision precluded judicial determination whether establishment of the Chaplain violated the establishment clause of the First Amendment to the Constitution (H. Res. 413, Mar. 30, 1982, p. 5890).

Rule VIII.

DUTIES OF THE MEMBERS.

§ 656. Members required to be present and vote.

§ 657. Personal interest.

1. Every Member shall be present within the Hall of the House during its sittings, unless excused or necessarily prevented; and shall vote on each question put, unless he has a direct personal or pecuniary interest in the event of such question.

This clause was adopted in 1789, with amendment in 1890 (V, 5941).

Leaves of absence are presented pending the motion to adjourn (IV, 3151), and are usually granted by general consent, but sometimes are opposed or even refused (II, 1142–1145). Application for leave of absence is properly presented by filing with the Clerk the printed form to be secured at the desk rather than by oral request from the floor (VI, 199). Whether or not they are privileged is a matter of doubt (II, 1146, 1147). Excuses for absence, as distinguished from leaves of absence, may be granted by less than a quorum (IV, 3000–3002). The statutes provide that deductions may be made from the salaries of Members who are absent without sufficient excuse (II, 1149, 1150); and while this law has been enforced (IV, 3011, footnote; VI, 30, 198), its general application is not practical under modern conditions. Form of resolution for the arrest of Members absent without leave (VI, 686).

§ 658. Member's control of his own vote.

It has been found impracticable to enforce the provision requiring every Member to vote (V, 5942–5948), and such question even if entertained, may not interrupt a pending roll call vote (V, 5947); and the weight of authority also favors the idea that there is no authority in the House to deprive a Member of the right to vote (V, 5937, 5952, 5959, 5966, 5967; VIII, 3072). In one or two early instances the Speaker has decided that because of personal interest, a Member should not vote (V, 5955, 5958); but on all other occasions and in the later practice the Speaker has held that the Member himself and not the Chair should determine this question (V, 5950, 5951; VIII, 3071; Speaker Albert, Dec. 2, 1975, p. 38135; Speaker O'Neill, Mar. 1, 1979, p. 3748), and the Speaker has denied his own power to deprive a Member of the constitutional right to vote (V, 5956; Speaker Albert, Dec. 2, 1975, p. 38135; Speaker O'Neill, Mar. 1, 1979, p. 3748). Members may not vote in the House by proxy (VII, 1014). Instance where a Member submitted his resignation from a committee on grounds of disqualifying personal interest (VIII, 3074).

The House has frequently excused Members from voting in cases of personal interest (III, 2294; V, 5962; Aug. 2, 1949, p. 10591, 10592; Oct. 20, 1951, p. 13746; July 21, 1954, p. 11262; July 28, 1955, p. 11930; July 12, 1956, p. 12566).

§ 659. Nature of disqualifying personal interest.

It is a principle of "immemorial observance" that a Member should withdraw when a question concerning himself arises (V, 5949); but it has been held that the disqualifying interest must be such as affects the Member directly (V, 5954, 5955, 5963), and not as one of a class (V, 5952; VIII, 3071, 3072; Speaker Bankhead, May 31, 1939. pp. 6359-60; Speaker Albert, Dec. 2, 1975, p. 38135). In a case where question affected the titles of several Members to their seats, each refrained from voting in his own case, but did vote on the identical cases of his associates (V, 5957, 5958). And while a Member should not vote on the direct questions affecting himself, he has sometimes voted on incidental questions (V, 5960, 5961).

§ 660a. Pairs.

2. Pairs shall be announced by the Clerk immediately before the announcement by the Chair of the result of the vote, by the House or Committee of the Whole from a written list furnished him, and signed by the Member making the statement to the Clerk, which list shall be published in the Record as a part of the proceedings, immediately following the names of those not voting. However, pairs shall be announced but once during the same legislative day.

This clause was adopted in 1880, although the practice of pairing had then existed in the House for many years (V, 5981). The language of the clause was slightly altered by amendment in 1972 to reflect the installation of electronic voting in the 93d Congress (H. Res. 1123, Oct. 13, 1972, pp. 36005-12). This clause was amended in the 94th Congress (H. Res. 5, Jan. 14, 1975, p. 20) to permit pairs to be announced in the Committee of the Whole.

Pairs may not be announced at a time other than that prescribed by the rule (V, 6046) and prior to the 94th Congress were not permitted in Committee of the Whole (V, 5984; Speaker Albert, Jan. 15, 1973, p. 1054). The House does not consider questions arising out of the breaking of a pair (V, 5982, 5983, 6095; VIII, 3082, 3085, 3087-3089, 3093), or permit a Member to vote after the call on the plea that he had refrained because of misunderstanding as to a pair (V, 6080, 6081). Discussion of the origin of the practice of pairing in the House and Senate (VIII, 3076). On questions requiring a two-thirds majority Members are paired two in the affirmative against one in the negative (VIII, 3088; Nov. 15, 1983, p. ——). (For Speaker Clark's interpretation of the rule and practice of the House of Representatives as to pairs see VIII, 3089.)

§ 660b. Voting.

3. (a) A Member may not authorize any other individual to cast his vote or record his presence in the House or Committee of the Whole.

(b) No individual other than a Member may cast a vote or record a Member's presence in the House or Committee of the Whole.

(c) A Member may not cast a vote for any other Member or record another Member's presence in the House or Committee of the Whole.

Clause 3 was added in the 97th Congress (H. Res. 5, Jan. 5, 1981, pp. 98–113). The Committee on Standards of Official Conduct recommended this addition to the Rules in its May 15, 1980, report (H. Rept. 96–991) on voting anomalies which had occurred in the House. Even prior to the addition of this clause, however, "ghost voting" was considered unethical (VII, 1014; Dec. 18, 1987, p. ——).

RULE IX.

QUESTIONS OF PRIVILEGE.

§ 661. Definition and precedence of questions of privilege.

Questions of privilege shall be, first those affecting the rights of the House collectively, its safety, dignity, and the integrity of its proceedings; second, the rights, reputation, and conduct of Members, individually, in their representative capacity only; and shall have precedence of all other questions, except motions to adjourn.

This rule was adopted in 1880 (III, 2521). It merely put in form of definition what had been long established in the practice of the House but what the House had hitherto been unwilling to define (II, 1603).

§ 662. Privilege of the House.

The privilege of the House, as distinguished from that of the individual Member, includes questions relating to its constitutional prerogatives in respect to revenue legislation and appropriations (II, 1480–1501; VI, 315; Nov. 8, 1979, pp. 31517–8; Oct. 1, 1985, p. 25418; June 16, 1988, p. ——; June 21, 1988, p. ——); including revenue, and other treaties (II, 1502–1537); impeachments and matters incidental thereto (see § 604, supra); its power to punish for contempt, whether of its own Members (II, 1641–1665), of witnesses who are summoned to give information (II, 1608, 1612; III, 1666–1724), or of other persons (II, 1597–1640); questions relating to its organization (I, 22–24, 189, 212, 290), and the title of its Members to their seats (III, 2579–2587), which may be raised as a question of the privileges of the House even though the subject has been previously referred to committee (I, 742; III, 2584; VIII, 2307), such as resolutions to declare prima facie right to a seat, or to declare a vacancy, where the House has referred the questions of prima facie and final right to an elections committee for investigation (H. Res. 1, Jan. 3, 1985, p. 381; H. Res. 52, Feb. 7, 1985, p. 2220; H. Res. 97, Mar. 4, 1985, p. 4277; H. Res. 121, Apr. 2, 1985, p. 7118; H. Res. 148, Apr. 30, 1985, p. 9801); various questions incidental to the right to a seat (I, 322, 328, 673, 742; II, 1207; III, 2588; VII, 2316), such as a resolution declaring a vacancy in the House because a Member-elect is unable to take the oath of office and to serve as a Member or to expressly resign the office due to an incapacitating illness (H. Res. 80, Feb. 24, 1981, p. 2916); a resolution declaring neither of two claimants seated pending a committee report and decision of final right to the seat by the House (Jan. 3, 1961, pp. 23–25; Jan. 3, 1985, p. 381), including incidental provisions providing compensation for both claimants and office staffing by the Clerk (Jan. 3, 1985, p. 381), and resolutions directing temporary seating of a certified Member-elect pending determination of final right notwithstanding prior House action declining to seat either claimant (Feb. 7, 1985, p. 2220; Mar. 4, 1985, p. 4277); the conduct of officers and employees (I, 284, 285; III, 2628, 2645–2647; VI, 35); comfort and convenience of Members and employees (III, 2629–2636); the impact on the safety, dignity and integrity of House proceedings, and on the comfort and convenience of Members, of an experiment for the telecasting and broadcasting of House proceedings (Speaker O'Neill, Mar. 15, 1977, pp. 7607–8); a resolution authorizing and directing the Speaker to provide for the audio and visual broadcast coverage of the chamber while Members are voting, since clause 9 of Rule I requires complete and unedited audio and visual coverage of House proceedings but coverage of rollcall votes had not been implemented (Apr. 30, 1985, p. 9821); admission to the floor of the House (III, 2624–2626); the accuracy and propriety of reports in the Congressional Record (V, 7005–7023; VIII, 3163, 3461, 3463, 3464, 3491, 3499; April 20, 1936, p. 5704; May 11, 1936, p. 7019; May 7, 1979, pp. 10099–100) including a resolution asserting that a Member's remarks spoken in debate were omitted from the printed Record, directing that the Record be corrected and requiring the Clerk to report on the circumstances and possible corrective action (July 29, 1983, p. ——) and resolutions directing the Committee on Rules to investigate and report to the House within a time certain on alleged alterations of the Congressional Record (Jan. 24, 1984, p. ——), and whether the Record should constitute a verbatim transcript (May 8, 1985, p. 11072); directing the Committee on Standards of Official Conduct to investigate illegal solicitation of political contributions in the House Office Building by unnamed sitting Members (July 10, 1985, p. 18397); directing the Committee on Standards of Official Conduct to further investigate the conduct of a Member on which it has reported to the House (Aug. 5, 1987, p. ——); the conduct of representatives of the press (II, 1630, 1631; III, 2627; VI, 553); newspaper charges affecting the honor and dignity of the House (VII, 911); the protection of papers in its files, especially when demanded by the courts and the protection of its constitutional prerogatives when directly questioned in the courts (III, 2604, 2660–2664; VI, 587; § 291); the integrity of its Journal (II, 1363; III, 2620); the protection of its records (III, 2659), including directions to a committee to investigate press publication of a report that the House had ordered not to be released (Speaker Albert, Feb. 19, 1976, p. 3914); the accuracy of its documents (V, 7329) and messages (III, 2613) a resolution asserting that a printed transcript of joint subcommittee hearings contained unauthorized alterations of the statements of subcommittee members in the prior Congress, that unauthorized alterations may have occurred in other committee hearing transcripts, and proposing the creation of a select committee to investigate and requiring the select committee to report back not later than a date certain (June 29, 1983, p. ——); a resolution alleging that the Chair had improperly ordered the interruption of audio broadcast coverage of certain House proceedings (Mar. 17, 1988, p. ——); a resolution requesting the Senate to return a House-passed bill and accompanying papers to the House if an error has been made by the Clerk in preparing the message to the Senate (Oct. 1, 1982, p. 27172); the integrity of the processes by which bills are considered (III, 2597–2601, 2614; IV, 3383, 3388, 3478) including the constitutional question of the vote required to pass a joint resolution extending the State ratification period of a proposed Constitutional Amendment (Speaker O'Neill, Aug. 15, 1978, pp. 26203–4); and resolutions concerning the proper attire for Members in the Chamber when the temperature is uncomfortably warm (July 17, 1979, p. 19008); requiring an investigation into the safety of Members in view of alleged structural deficiencies in the West Front of the Capitol (July 25, 1980, pp. 19762–4); directing the appointment of a select committee to inquire into alleged fire safety deficiencies in the environs of the House (May 10, 1988, p. ——); allegations concerning the propriety of responses by officers of the House to court subpoenas for papers of the House without notice to the House, and directions to a committee to investigate such allegations (Feb. 13, 1980, pp. 2768–9); a resolution responding to a court challenge to the prerogatives of the House to establish a chaplain and asserting the Constitutional doctrine of separation of powers (where a United States Court of Appeals had determined that the Constitution did not prohibit judicial determination whether establishment of the Chaplain violated the establishment clause of the First Amendment to the Constitution) (Mar. 30, 1982, p. 5890); a resolution alleging a chronology of litigation relating to the immunity of a Member from civil liability for bona fide official acts and expressing the views of the House thereon (May 12, 1988, p. ——); and the resignation of a Member from a select or standing committee (Speaker Albert, June 16, 1975, p. 19054; Speaker O'Neill, Mar. 8, 1977, pp. 6579-82). While a motion to correct the Congressional Record based on improper alternations or insertions may be raised as a question of privilege, mere typographical errors or ordinary revisions of a Member's remarks do not form the basis for privileged motions to correct the Record (Apr. 25, 1985, p. 9419; see § 927, infra).

§ 663. Privilege of the Member.

The privilege of the Member rests primarily on the Constitution, which gives to him a conditional immunity from arrest (§ 90) and an unconditional freedom of debate in the House (III, 2670, § 92). A menace to the personal safety of Members from an insecure ceiling in the Hall was held to involve a question of the highest privilege (III, 2685); and an assault on a Member within the Capitol when the House was not in session, from a cause not connected with the Member's representative capacity, was also held to involve a question of privilege (II, 1624). But there has been doubt as to the right of the House to interfere for the protection of Members, who outside the Hall, get into difficulties not connected with their official duties (II, 1277; III, 2678; footnote). Charges against the conduct of a Member are held to involve privilege when they relate to his representative capacity (III, 1828-1830, 2716; VI, 604, 612; VIII, 2479); but when they relate to conduct at a time before he became a Member they have not been entertained as of privilege (II, 1287; III, 2691, 2723, 2725). A distinction has been drawn between charges made by one Member against another in a newspaper [or a press release (July 28, 1970, p. 26002)] and the same when made on the floor (III, 1827, 2961, 2717). Charges made in newspapers against Members in their representative capacities involve privilege (III, 1832, 2694, 2696-2699, 2703, 2704; VI, 576, 621; VIII, 2479), even though the names of individual Members be not given (III, 1831, 2705, 2709; VI, 616, 617). But vague charges in newspaper articles (III, 2711; VI, 570), criticisms (III, 2712-2714; VIII, 2465), or even misrepresentations of the Member's speeches or acts (III, 2707, 2708), have not been entertained. While a question of personal privilege may not ordinarily be based merely on words spoken in debate (July 23, 1987, p.——; Mar. 16, 1988, p. ——), a Member may raise a question of personal privilege based upon press accounts of another Member's remarks, in debate or off the floor, which impugned his character or motives (May 15, 1984, p. —— and p. ——; May 31, 1984, p. ——), or based upon newspaper accounts of televised press coverage of a committee hearing at which he was criticized derogatorily (Mar. 3, 1988, p. ——). While questions of personal privilege normally involve matters touching on a Member's reputation, a Member may be recognized for a question of personal privilege based on a violation of his rights as a Member, such as unauthorized printed alterations in his statements made during a subcommittee hearing in a prior Congress (since the second phrase of this clause speaks to the "rights, reputation, and conduct of Members, individually") (June 28, 1983, p. ——). A printed characterization by an Officer of the House of a Member's proposed amendments as "dilatory and frivolous" may give rise to a question of personal privilege (Aug. 1, 1985, p. 22542) as may the fraudulent use of a Member's official stationery as a "dear colleague" letter (Sept. 17, 1986, p. ——). While a Member may be recognized on a question of personal privilege to complain about an abuse of House rules as applied to debate in which he was properly participating, he may not raise a question of personal privilege merely to complain that microphones had been turned off during disorderly conduct following expiration of his recognition for debate (Mar. 16, 1988, p. ——).

§ 664. General principles as to precedence of questions of privilege.

The clause of the rule giving questions of privilege precedence of all other questions except a motion to adjourn is a recognition of a principle always well understood in the House, for it is an axiom of the parliamentary law that such a question "supersedes the consideration of the original question, and must be first disposed of" (III, 2522, 2523; VI, 595). As the business of the House began to increase it was found necessary to give certain important matters a precedence by rule, and such matters are called "privileged questions." But as they relate merely to the order of business under the rules, they are to be distinguished from "questions of privilege" which relate to the safety or efficiency of the House itself as an organ for action (III, 2718). It is evident, therefore, that a question of privilege takes precedence over a matter merely privileged under the rules (III, 2526-2530; V, 6454; VIII, 3465). Certain matters of business, arising under provisions of the Constitution mandatory in nature, have been held to have a privilege which superseded the rules establishing the order of business, as bills providing for census or apportionment (I, 305-308), bills returned with the objections of the President (IV, 3530-3536), propositions of impeachment (III, 2045-2048, 2051, 2398; July 22, 1986 p. ——), and questions incidental thereto (III, 2401, 2418; V, 7261; July 22, 1986, p. ——; Dec. 2, 1987, p.——; Jan. 3, 1989, p. ——; Feb. 7, 1989, p. ——), matters relating to the count of the electoral vote (III, 2573-2578), resolutions relating to adjournment and recess of Congress (V, 6698, 6701-6706), and a resolution declaring the office of Speaker vacant (VI, 35); but under later decisions certain of these matters which have no other basis in the Constitution or in the Rules for privileged status, such as bills relating to census and apportionment, have been held not to present questions of privilege, and the effect of such decisions is to require all questions of privilege to come within the specific provisions of this rule (VI, 48; VII, 889; Apr. 8, 1926, p. 7147). The ordinary rights and functions of the House under the Constitution are exercised in accordance with the rules without precedence as matters of privilege (III, 2657) but an extraordinary question relating to the House vote required by the Constitution to pass a joint resolution extending the ratification period of a proposed Constitutional amendment was raised as a question of privilege where the House had not otherwise made a separate determination on that procedural question and where consideration of the joint resolution had been made in order (Speaker O'Neill, Aug. 15, 1978, pp. 26203–4).

A motion to amend the Rules of the House does not present a question of privilege [Speaker Cannon sustained by the House by a vote of 235 to 53, thereby overruling the decision of March 19, 1910 (VIII, 3376), which held such motion privileged (VIII, 3377)], and a question of the privileges of the House may not be invoked to effect a change in the rules of the House or their interpretation (Speaker O'Neill, Dec. 6, 1977, pp. 38470–73; Sept. 9, 1988, p. ——), including directions to the Speaker infringing upon his discretionary power of recognition under clause 2, Rule XIV (July 25, 1980, pp. 19762–4), for example, by requiring that he give priority in recognition to any Member seeking to call up a matter highly privileged pursuant to a statutory provision, over a member from the Committee on Rules seeking to call up a privileged report from that Committee (Speaker Wright, Mar. 11, 1987, p. ——), or by requiring that he state the question on overriding a veto before recognizing for a motion to refer (thereby overruling prior decisions of the Chair to change the order of precedence of motions) (Speaker Wright, Aug. 3, 1988, p. ——). But a resolution which presents a proper question of the privileges of the House (alteration of subcommittee hearing transcripts) may propose the creation of a select investigatory committee to report back to the House by a date certain (June 29, 1983, p. ——). A resolution directing that the party ratios of all standing committees, subcommittees and staffs thereof be changed within a time certain to reflect overall party ratios in the House was held to constitute a change in the rules of the House and not to consitute a proper question of the privileges of the House (House rules already providing mechanisms for selecting committee members and staff) (Jan. 23, 1984, p. ——). Although the rules of the House establish a procedure for fixing the ratio of majority to minority members on full committees, and also provide that subcommittees are subject to the direction and control of the full committee (clause 1(b), Rule XI), where it is alleged that subcommittee ratios should reflect full committee ratios established by the House, based upon denial of representational rights at the subcommittee level, a question of the privileges of the House is raised (Oct. 4, 1984, p. ——). A legislative proposition presented as a question of constitutional privilege under the provisions of the Fourteenth Amendment was held not to involve a question of privilege (VI, 48). A Member may not by raising a question of the privileges of the House under Rule IX thereby attach privilege to a question (directing the Committee on Rules to consider reporting a special order) not otherwise in order under the Rules of the House (Speaker Albert, June 27, 1974, p. 21596; July 31, 1975, p. 26250). A resolution alleging that a recitation of the pledge of allegiance at the start of each legislative day would enhance the dignity and integrity of the proceedings of the House and directing that the Speaker implement such a recitation as the practice of the House was held to propose a rules change and therefore not to give rise to a question of the privileges of the House (Sept. 9, 1988, p. ——). Alleged improprieties in committee procedures, including charges of committee inaction (III, 2610), secret committee conferences (VI, 578), refusal to make staff study available to certain Members and to the public (Feb. 14, 1939), refusal to give hearings or allow petitions to be read (III, 2607), refusal to permit committee member to take photostatic copies of committee files (Aug, 14, 1957), and a determination whether a committee violated House rules by voting to take allegedly defamatory testimony in open session (June 30, 1958, p. 12690-1), were all held not to give rise to a question of the privileges of the House.

§ 665. Precedence of questions of privilege as related to pending business.

A question of privilege which relates to a breach of privilege (an assault) occurring during the reading of the Journal may interrupt its reading (II, 1630). A question of privilege may interrupt the reading of the Journal (II, 1630; VI, 637), the consideration of a bill under a special order (III, 2524, 2525), a rule providing for a vote "without intervening motion" (VI, 560), a proposition to suspend the rules (III, 2553; VI, 553, 565), the consideration of a matter on which the previous question has been ordered (III, 2532; VI, 561; VIII, 2688), business in order on Calendar Wednesday (VI, 394; VII, 908-910), reports from the Rules Committee (VIII, 3491; Mar. 11, 1987, p. ——), call of the Consent Calendar on Monday (VI, 553), motions to resolve into Committee of the Whole (VI, 554; VIII, 3461). A question of the privileges of the House takes precedence over unfinished business, privileged under clauses 1 & 3, Rule XXIV (Speaker Albert, June 4, 1975, p. 16860). Since a resolution raising a question of the privileges of the House takes precedence over a motion to suspend the rules, it may be offered and voted on between motions to suspend the rules on which the Speaker has postponed record votes until after debate on all suspensions (May 17, 1983, p. ——). While a question of privilege is pending a message of the President is received (V, 6640-6642), but is read only by unanimous consent (V, 6639). A motion to reconsider may also be entered but may not be considered (V, 5673-5676). It has been held that only one question of privilege may be pending at a time (III, 2533), but having presented one question of privilege, a Member, before discussing it, may submit a second question of privilege related to the first and discuss both on one recognition

(VI, 562). In general one question of privilege may not take precedence over another (III, 2534, 2552, 2581). While a resolution raising a question of the privileges of the House has precedence over all other questions, it is nevertheless subject to disposition by the ordinary motions permitted under Rule XVI, clause 4, and by the motion to refer under Rule XVII, clause 1 (Speaker Albert, Feb. 19, 1976, p. 3914; Apr. 28, 1983, p. ——). While under Rule IX a question of the privileges of the House takes precedence over all other questions except the motion to adjourn, the Speaker may pursuant to his power of recognition under clause 2, Rule XIV, entertain unanimous consent requests for "one-minute speeches" pending recognition for a question of privilege, since such unanimous consent requests, if granted, temporarily waive the standing rules of the House relating to the order of business (Speaker O'Neill, July 10, 1985, p. 18394).

§ 666. Precedence of questions of personal privilege.

When a Member proposes merely to address the House on a question of personal privilege, and does not bring up a resolution affecting the dignity or integrity of the House for action, the practice as to precedence is somewhat different. Thus, a Member rising to a question of personal privilege may not interrupt a call of the yeas and nays (V, 6051, 6052, 6058, 6059; VI, 554, 564), or take from the floor another Member who has been recognized for debate (V, 5002; VIII, 2459, 2528; Sept. 29, 1983, p. ——; July 23, 1987, p. ——), but he may interrupt the ordinary legislative business (III, 2531). A Member may address the House on a question of personal privilege even after the previous question has been ordered on a pending bill (VI, 561; VIII, 2688). Under modern practice, a question of personal privilege may not be raised in Committee of the Whole (Sept. 4, 1969, p. 24372; Dec. 13, 1973, p. 41270), the proper remedy being that a demand that words uttered in the Committee of the Whole be taken down, pursuant to clause 5, Rule XIV, yet a breach of privilege occurring in Committee of the Whole relates to the dignity of the House and is so treated (II, 1657). A question of personal privilege may not be raised while a question of the privileges of the House is pending (Apr. 30, 1985, p. 9808; May 1, 1985, p. 10003).

§ 667. Questions of privilege in the absence of a quorum.

During a call of the House in the absence of a quorum only such questions of privilege may be presented as relate to the immediate proceedings (III, 2545).

§ 668. Raising questions of privilege.

Whenever it is asserted on the floor that the privileges of the House are invaded, the Speaker entertains the question (II, 1501), and may then refuse recognition if the resolution is not admissible as a question of privilege under the rule. Although the early custom was for the Speaker to submit to the House the question whether a resolution involved the privileges of the House (III, 2718), the modern practice is for the Speaker to rule directly on the question (VI, 604; Speaker Wright, Mar. 11, 1987, p. ——), subject to appeal where appropriate (Speaker

Albert, June 27, 1974, p. 21596). Common fame has been held sufficient basis for raising a question (III, 2538, 2701); a telegraphic dispatch may also furnish a basis (III, 2539). A report relating to the contemptuous conduct of a witness before a committee gives rise to a question of the privileges of the House and may, under this rule, be considered on the same day reported notwithstanding the requirement of clause 2(1)(6), Rule XI that reports from committees be available to Members for at least 3 calendar days prior to their consideration (Speaker Albert, July 13, 1971, pp. 24720-23). But a Member may not, as matter of right, require the reading of a book or paper on suggesting that it contains matter infringing on the privileges of the House (V, 5258). In presenting a question of personal privilege the Member is not required in the first instance to offer a motion or resolution, but he must take this preliminary step in raising a question of general privileges (III, 2546, 2547; VI, 565-569; VII, 3464). A proposition of privilege may lose its precedence by association with a matter not of privilege (III, 2551; V, 5890; VI, 395). Debate on a question of privilege is under the hour rule (V, 4990; VIII, 2448), but the previous question may be moved (II, 1256; V, 5459, 5460; VIII, 2672), and debate on a letter of resignation is controlled by the Member moving the acceptance of the resignation (Mar. 8, 1977, pp. 6579-82) if the resigning Member does not seek recognition (June 16, 1975, p. 19054). Debate on a question of personal privilege must be confined to the statements or issues which gave rise to the question of privilege (V, 5075-77; VI, 576, 608; VIII, 2448, 2481; May 31, 1984, p. ——).

RULE X.

ESTABLISHMENT AND JURISDICTION OF STANDING COMMITTEES.

The Committees and Their Jurisdiction

§ 669. Number and jurisdiction of standing committees.

1. There shall be in the House the following standing committees, each of which shall have the jurisdiction and related functions assigned to it by this clause and clauses 2, 3, and 4; and all bills, resolutions, and other matters relating to subjects within the jurisdiction of any standing committee as listed in this clause shall (in accord-

ance with and subject to clause 5) be referrred to such committees, as follows:

Under the Legislative Reorganization Act of 1946 (60 Stat. 812), the 44 committees of the 79th Congress were consolidated into 19, effective January 2, 1947. The Committee on Science and Astronautics (now the Committee on Science, Space, and Technology) was established July 21, 1958, p. 14513; and the Committee on Standards of Official Conduct on April 13, 1967, p. 9425; the Committee on the Budget was established by the Congressional Budget Act of 1974 (88 Stat. 297, section 101) enacted July 12, 1974; the Committee on Small Business was established as a standing committee effective January 3, 1975 (H. Res. 988, 93d Congress, p. 34470); and the Committee on Internal Security was abolished on Jan. 14, 1975 (H. Res. 5, p. 20); thereby fixing the total number of standing committees at 22. A permanent Select Committee on Aging was added as clause 6(g) of this rule effective January 3, 1975 (H. Res. 988, 93d Congress, p. 34470); and a Permanent Select Committee on Intelligence was established on July 14, 1977, and is now carried in Rule XLVIII. In the 93d Congress, the specifications in the rules of the numbers of Members comprising each of the standing committees were eliminated, thereby leaving to the House the authority to establish the size of committees by the numbers elected to each standing committee pursuant to clause 6(a)(1), Rule X. The rules specify the size of the Budget Committee in clause 1(e)(1), Rule X and the size of the Select Committee on Intelligence in clause 1(a), Rule XLVIII.

The rule is mandatory on the Speaker in referring public bills and on Members in referring private bills and petitions under Rule XXII, but when the House itself refers a bill it may send it to any committee without regard to the rules of jurisdiction (IV, 4375; V, 5527; VII, 2131) and jurisdiction is thereby conferred (IV, 4362–4364; VII, 2105). Motions for change of reference of public bills and resolutions must be authorized either by the committee claiming jurisdiction (clause 4, Rule XXII; VII, 2121; Feb. 13, 1918, p. 2070; Jan. 10, 1941, p. 100) or by report of the committee to which the erroneous reference was made (clause 4, Rule XXII), must be made immediately following the reading of the Journal (VII, 1809, 2119, 2120), must apply to a single bill and not to a class of bills (VII, 2125), must apply to a bill erroneously referred (VII, 2125), may be amended (VII, 2127), may not be divided (VII, 2125); and may not be debated (VII, 2126, 2128), but are not in order on Calendar Wednesday (VII, 2117), and are not privileged if the original reference was not erroneous (VII, 2125). The re-referral of most bills is accomplished by unanimous consent. (See also Deschler's Procedure (93d Congress), Ch. 17, §§ 16–38). Prior to the 94th Congress, a bill could not be divided among two or more committees, although it contained matters properly within the jurisdiction of several committees (IV, 4372), but under clause 5, Rule X (made part of the rules by the adoption of H. Res. 988, 93d Congress, effective January 3, 1975), the Speaker is authorized to refer any matter to more than one committee. A committee having jurisdiction of a subject by means of a petition (IV, 3365) properly referred (IV, 4361) can report on the subject thereof. It has generally been held that a committee may not report a bill whereof the subject matter has not been referred to it by the House (IV, 4355–4360, 4372; VII, 1029, 2101, 2102). Where a House bill is returned from the Senate with a substitute amendment relating to a new and different subject, the reference could nevertheless be to the committee having jurisdiction of the original bill (IV, 4373, 4374); normally, however such amended measures are held at the Speaker's table until disposed of by the House. The erroneous reference of a public bill under this rule, if it remain uncorrected, gives jurisdiction (IV, 4365–4371; VII, 2108), but such is not the case with a private bill or petition (IV, 3364, 4382–4389) unless the reference be made by action of the House itself (IV, 4390, 4391; VII 2131). A point of order as to the reference of a private bill is good when the bill comes up for consideration, either in the House or in Committee of the Whole (IV, 4382–4389; VII, 2116, 2132; VIII, 2262) or at any time prior to passage (VII, 2116). The reference of a bill to a committee involving the same subject matter as a bill previously reported confers jurisdiction anew upon the committee to consider and report the bill subsequently introduced (VIII, 2311).

Rule XXII, clause 2, prohibits the reception or consideration of certain private bills relating to claims, pensions, construction of bridges, correction of military or naval records, etc.

(a) **Committee on Agriculture.**

§ 670. Agriculture.

(1) Adulteration of seeds, insect pests, and protection of birds and animals in forest reserves.

(2) Agriculture generally.

(3) Agricultural and industrial chemistry.

(4) Agricultural colleges and experiment stations.

(5) Agricultural economics and research.

(6) Agricultural education extension services.

(7) Agricultural production and marketing and stabilization of prices of agricultural products, and commodities (not including distribution outside of the United States).

(8) Animal industry and diseases of animals.

(9) Crop insurance and soil conservation.

(10) Dairy industry.

(11) Entomology and plant quarantine.

(12) Extension of farm credit and farm security.

(13) Forestry in general, and forest reserves other than those created from the public domain.

(14) Human nutrition and home economics.

(15) Inspection of livestock and meat products.

(16) Plant industry, soils, and agricultural engineering.

(17) Rural electrification.

(18) Commodities exchanges.

(19) Rural development.

This committee was established in 1820 (IV, 4149). The jurisdiction as defined in the rule was made effective January 2, 1947, as a part of the Legislative Reorganization Act of 1946 (60 Stat. 812), and was altered (par. 7) in the 93d Congress effective Jan. 3, 1975 (H. Res. 988, p. 34470), to give the committee jurisdiction over agricultural commodities (including the Commodity Credit Corporation) but to transfer jurisdiction over foreign distribution and nondomestic production of commodities to the Committee on Foreign Affairs (clause 1(h) (15), Rule X). Paragraphs (18) and (19) were added to the rule as part of the rules change effective Jan. 3, 1975, to reflect jurisdiction over subjects already within the committee's cognizance. In 1880 the subject of forestry was added to its jurisdiction, and at the same time the authority to receive the estimates and report appropriations was conferred (IV, 4149), but on July 1, 1920, authority to report appropriations for the Department of Agriculture was transferred to the Committee on Appropriations (VII, 1860).

It has had jurisdiction of bills for establishing and regulating the Department of Agriculture (IV, 4150), for inspection of livestock and meat products, regulation of animal industry, diseases of animals (IV, 4154; VII, 1862), adulteration of seeds, insect pests, protection of birds and animals in forest reserves (IV, 4157; VII, 1870), the improvement of the breed of horses, even with the cavalry service in view (IV, 4158; VII, 1865).

The committee, having in charge the general subject of forestry, has reported bills relating to timber, and forest reserves other than those created from the public domain (IV, 4160).

It has also exercised jurisdiction of bills relating to agricultural colleges and experiment stations (IV, 4152), incorporation of agricultural societies (IV, 4159), establishment of a highway commission (IV, 4153), to discourage fictitious and gambling transactions in farm products (IV, 4161; VII, 1861), and to regulate the transportation, sale and handling of dogs and cats intended for use in research and the licensing of animal research facilities (July 29, 1965, p. 18691).

The committee has, by direct action of the House, secured jurisdiction of bills imposing an internal-revenue tax on oleomargarine (IV, 4156), and has also had a general, but not exclusive jurisdiction of bills relating to imitation dairy products, manufacture of lard, etc. (IV, 4156; VII, 1869), and tax on cotton and grain futures (65th Cong.). But this jurisdiction of revenue matters is exceptional (IV, 4155).

The House referred the President's message dealing with the refinancing of farm-mortgage indebtedness to the committee thus conferring jurisdiction (Apr. 4, 1933, p. 1209).

The committee has exclusive jurdisdiction over a bill relating solely to executive level positions in the Department of Agriculture (Mar. 2, 1976, p. 4958) and has jurisdiction over bills to develop land and water conservation programs on private and non-Federal lands (June 7, 1976, p. 16768).

(b) Committee on Appropriations.

§ 671a. Appropriations. (1) Appropriation of the revenue for the support of the Government.

(2) Rescissions of appropriations contained in appropriation Acts.

(3) Transfers of unexpended balances.

(4) The amount of new spending authority (as described in the Congressional Budget Act of 1974) which is to be effective for a fiscal year, including bills and resolutions (reported by other committees) which provide new spending authority and are referred to the committee under clause 4(a).

The committee shall include separate headings for "Rescissions" and "Transfers of Unexpended

Balances" in any bill or resolution as reported from the committee under its jurisdiction specified in subparagraph (2) or (3), with all proposed rescissions and proposed transfers listed therein; and shall include a separate section with respect to such rescissions or transfers in the accompanying committee report. In addition to its jurisdiction under the preceding provisions of this paragraph, the committee shall have the fiscal oversight function provided for in clause 2(b)(3) and the budget hearing function provided for in clause 4(a).

§ 671b. Responsibilities under Budget Act.

This committee was established in 1865, when all the general appropriation bills were confided to its care. In 1885 a portion of the bills were distributed to other committees. On July 1, 1920, the committee again was given jurisdiction over all appropriations by an amendment to the Rules adopted June 1, 1920 (VII, 1741). Effective July 12, 1974, special Presidential messages on rescissions and deferrals of budget authority submitted pursuant to sections 1012 and 1013 of the Impoundment Control Act of 1974 (88 Stat. 332 et seq.), as-well-as rescission bills and impoundment resolutions defined in section 1011 and required in section 1017 to be referred to the "appropriate" committee, are referred to the Committee on Appropriations if the proposed rescissions or deferrals involve funds already appropriated or obligated. Also effective July 12, 1974, in the Congressional Budget Act of 1974 [88 Stat. 320, sec. 404(a)] as perfected by H. Res. 988, 93d Congress (effective Jan. 3, 1975, p. 34470), the committee was given jurisdiction over rescissions of appropriations (par. 2), transfers of unexpended balances (par. 3), and the amount of new spending authority to be effective for a fiscal year (par. 4) including measures reported by other committees which exceed the appropriate allocation of new budget authority contained in the most recently agreed to concurrent resolution on the budget for such fiscal year as provided in clause 4(a)(2), Rule X (H. Res. 988, 93d Congress, p. 34470). On January 4, 1977 (H. Res. 5, p. 53) an amendment to this clause was adopted to correct a typographical error.

While this committee has authority to report appropriations, the power to report legislation relating thereto belongs to other committees (IV, 4033; clause 2, Rule XXI), and a general appropriation bill reported from this committee may not contain items of appropriation not authorized by law or provisions amending existing law (except retrenchments and rescissions of appropriations) (clause 2, Rule XXI), and may not contain reappropriations of unexpended balances (clause 6, Rule XXI). General appropriation bills may not be considered in the House until reports and hearings have been available 3 days in advance (clause 7, Rule XXI), and any other report from the committee may likewise not be considered until the report has been available for the time prescribed in clause 2(l)(6), Rule XI. The authority to conduct studies and examinations of the organization and operation of executive departments and agencies was first given to this committee on February 11, 1943, p. 884; continued by resolution of January 9, 1945, p. 135, and incorporated into permanent law in Sec. 202(b) of the Legislative Reorganization Act of 1946 (60 Stat. 812). This authority was first made part of the standing rules on January 3, 1953, pp. 17, 24, and is now listed as a general oversight responsibility of the committee in clause 2(b)(3), Rule X (H. Res. 988, effective January 3, 1975, p. 34470). The committee is also authorized and directed to hold hearings on the Budget as a whole in open session within 30 days of its submission (clause 4(a)(1)(A), Rule XI), and to study on a continuing basis provisions of law providing spending authority or permanent budget authority and to report to the House recommendations for terminating or modifying such provisions (clause 4(a)(3), Rule X). In addition, clause 2(l)(1)(C) of Rule XI requires the committee to submit a summary report comparing its recommendations in all regular appropriation bills with the appropriate levels of budget outlays and authority contained in the most recently agreed to concurrent resolution on the budget for that year. The requirement of sec. 139 of the Legislative Reorganization Act of 1946 (60 Stat. 812) that the Committees on Appropriations of the House and Senate develop a standard appropriation classification schedule has been superseded by section 202(a) of the Legislative Reorganization Act of 1970 (84 Stat. 1167) which now imposes that responsibility upon the Secretary of the Treasury and the Office of Management and Budget. The further requirement of sec. 139 that the Appropriations Committees study existing permanent appropriations and recommend which, if any, should be discontinued has been made the responsibility of all standing committees of the House by clause 4(f)(1), (2), Rule XI, § 253 of the Legislative Reorganization Act of 1970 (84 Stat. 1175).

(c) **Committee on Armed Services.**

(1) Common defense generally.

§ 672. Armed Services.

(2) The Department of Defense generally, including the Departments of the Army, Navy, and Air Force generally.

(3) Ammunition depots; forts; arsenals; Army, Navy, and Air Force reservations and establishments.

(4) Conservation, development, and use of naval petroleum and oil shale reserves.

(5) Pay, promotion, retirement, and other benefits and privileges of members of the armed forces.

(6) Scientific research and development in support of the armed services.

(7) Selective service.

(8) Size and composition of the Army, Navy, and Air Force.

(9) Soldiers' and sailors' homes.

(10) Strategic and critical materials necessary for the common defense.

(11) Military applications of nuclear energy.

In addition to its legislative jurisdiction under the preceding provisions of this paragraph (and its general oversight function under clause 2(b)(1)), the committee shall have the special oversight function provided for in clause 3(a) with respect to international arms control and disarmament, and military dependents education.

This committee was established January 2, 1947, as a part of the Legislative Reorganization Act of 1946 (60 Stat. 812), and combined the Committees on Military Affairs and on Naval Affairs which were created in 1822 (IV, 4179, 4189). These two committees had jurisdiction of appropriations from 1885 to 1920 (IV, 4179, 4189; VII, 1741).

The present legislative jurisdiction in this clause was adopted in January 3, 1953, p. 17, to reflect jurisdiction over the Department of Defense (created in the National Security Act, 61 Stat. 495) and on January 4, 1977 (H. Res. 5) to reflect jurisdiction over military application of nuclear energy upon the elimination of the legislative jurisdiction of the Joint Committee on Atomic Energy. The special oversight function of the committee under clause 3(a), Rule X and the general oversight function of the committee under clause 2(b)(1), Rule X were included in this clause by H. Res. 988, 93d Congress, effective January 3, 1975, p. 34470. The committee has jurisdiction over bills relating to military housing construction (Apr. 18, 1967, p. 9981; Feb. 21, 1962, p. 2684), bills amending title 10 U.S. Code to permit suits against the United States for damage to reputation of members of Armed Forces acquitted of charges of crimes against civilians in combat zones (July 15, 1970, p. 24451), bills for construction of facilities at Walter Reed Medical Center (Oct. 3, 1966, p. 24859), and bills to require military commissary, post exchange and medical care privileges for veterans with sufficient service-connected disabilities (Feb. 3, 1976, p. 1972), over private bills conferring the Congressional Medal of Honor on individuals (Feb. 22, 1982, p. 1812), and the committee has sole primary jurisdiction over a bill, or provision thereof, authorizing appropriations to the Department of Energy for resource applications for naval petroleum and oil shale reserves (May 1, 1978, p. 11946). The committee has jurisdiction with the Committee on Interior and Insular Affairs over a resolution expressing the sense of Congress regarding continued operation of the Hanford Nuclear Reactor to produce power for the Bonneville Power Administration (July 17, 1986, p. ——).

(d) Committee on Banking, Finance and Urban Affairs.

(1) Banks and banking, including deposit insurance and Federal monetary policy.

§ 673. Banking, Finance and Urban Affairs.

(2) Money and credit, including currency and the issuance of notes and redemption thereof; gold and silver, including the coinage thereof; valuation and revaluation of the dollar.

(3) Urban development.

(4) Public and private housing.

(5) Economic stabilization, defense production, renegotiation, and control of the price of commodities, rents, and services.

(6) International finance.

(7) Financial aid to commerce and industry (other than transportation).

(8) International Financial and Monetary organizations.

This committee was established in 1865 (IV, 4082), and its name was changed from Banking, Currency and Housing to Banking, Finance and Urban Affairs on January 4, 1977 (H. Res. 5, pp. 53–70). Pursuant to the Legislative Reorganization Act of 1946 (60 Stat. 812), the committee was given much of its present jurisdiction, and it absorbed the jurisdiction of the former Committee on Coinage, Weights, and Measures, created in 1864 (IV, 4090), except jurisdiction over matters relating to the standardization of weights and measures and the metric system (which was given to the Committee on Interstate and Foreign Commerce (now Energy and Commerce) in the Reorganization Act of 1946) and then transferred to the Committee on Science and Astronautics (now Science, Space, and Technology) on July 21, 1958 (H. Res. 580, 85th Congress, p. 14513). In the 92d Congress, jurisdiction over the impact on the economy of tax-exempt foundations and charitable trusts was transferred from the Subcommittee on Foundations of the Select Committee on Small Business, along with all that subcommittee's files, to the Committee on Banking and Currency (H. Res. 320, Apr. 27, 1971, p. 12081). Prior to the end of the 93d Congress, the committee had legislative jurisdiction over the problems of small business under the general grant of jurisdiction in par. 7, but with the adoption of H. Res. 988, effective January 3, 1975, p. 34470, that jurisdiction was transferred to the standing Committee on Small Business under clause 1(s) of Rule X, and the permanent Select Committee on Small Business was abolished. H. Res. 988 also redesignated this Committee as the Committee on Banking, Currency and Housing, and specifically added jurisdiction over Federal monetary policy (par. 1), money and credit (par. 2), urban development (par. 3), economic stabilization, defense production, and renegotiation (the latter matter formerly within the jurisdiction of the Committee on Ways and Means) (par. 5), international finance (par. 6), and International Financial and Monetary organizations (formerly within the jurisdiction of the Committee on Foreign Affairs (par. 8)). H. Res. 988 also transferred jurisdiction from this committee over the Commodity Credit Corporation to the Committee on Agriculture (clause 1(a)(7), Rule X), over export controls to the Committee on Foreign Affairs (clause 1(i)(14), Rule X), over international economic policy to the Committee on Foreign Affairs (clause 1(i)(13), Rule X), over construction of nursing home facilities to the Committee on Energy and Commerce (clause 1(h)(11), Rule X), and over urban mass transportation to the Committee on Public Works and Transportation (clause 1(p)(10), Rule X).

It has reported on subjects relating to the strengthening of public credit, issues of notes and taxation and redemption thereof (IV, 4084), propositions to maintain the parity of the money of the United States (IV, 4089; VII, 1792), the issue of silver certificates as currency (IV, 4087, 4088), national banks and current deposits of public money (IV, 4083; VII, 1790), the incorporation of an international bank (IV, 4086), subjects relating to the Freedman's Bank (IV, 4085), and Federal Reserve system, farm loan act, home loan bills, stabilization of the dollar, War Finance Corporation, Federal Reserve Bank buildings (VII, 1793, 1795). The committee has jurisdiction of bills providing consolidation of grant-in-aid programs for urban development (Mar. 18, 1970, p. 7887), bills providing for U.S. participation in the International Development Association (Mar. 9, 1960, p. 5046), bills to authorize GSA to acquire land in D.C. for transfer to the International Monetary Fund (May 1, 1962, p. 7428), bills relating to flood insurance (Dec. 4, 1975, p. 38701), and over an executive communication proposing regulations for college housing programs (notwithstanding that the requirement for such regulations was contained in higher education legislation reported from the Committee on Education and Labor) (June 15, 1982, p. 13638).

(e)(1) **Committee on the Budget**, consisting of the following Members:

§ 674a. Budget. Composition of.

(A) Members who are members of other standing committees, including five Members who are members of the Committee on Appropriations, and five Members who are members of the Committee on Ways and Means;

(B) one Member from the leadership of the majority party; and

(C) one Member from the leadership of the minority party.

No Member other than the representative from the leadership of the majority party and the representative from the leadership of the minority party shall serve as a member of the Committee on the Budget during more than three Congresses in any period of five successive Congresses (disregarding for this purpose any service performed as a member of such committee for less than a full session in any Congress), except that an incumbent chairman having served on the committee for three Congresses and having served as chairman of the committee for not more than one Congress shall be eligible for reelection to the committee as chairman for one additional Congress. Previous service on the Committee before the One Hundred First Congress shall be disregarded, for the purposes of this prohibition during the One Hundred First Congress, for the ranking minority member of the Committee (who is not the Member designated as the Member from the leadership of the minority party). A minority Member having served on the committee for three Congresses and having served as the ranking minority member in the last such Congress shall be eligible for reelection to the committee as ranking minority Member for one additional Congress. All selections of Members to serve on the committee shall be made without regard to seniority.

§ 674b. Jurisdiction and duties.

(2) All concurrent resolutions on the budget (as defined in section 3(a)(4) of the Congressional Budget Act of 1974) and other matters required to be referred to the committee under titles III and IV of that Act, and any resolution pursuant to section 254(b) of the Balanced Budget and Emergency Deficit Control Act of 1985.

(3) The committee shall have the duty—

(A) to report the matters required to be reported by it under titles III and IV of the Congressional Budget Act of 1974;

(B) to make continuing studies of the effect on budget outlays of relevant existing and proposed legislation and to report the results of such studies to the House on a recurring basis;

(C) to request and evaluate continuing studies of tax expenditures, to devise methods of coordinating tax expenditures, policies, and programs with direct budget outlays, and to report the results of such studies to the House on a recurring basis; and

(D) to review, on a continuing basis, the conduct by the Congressional Budget Office of its functions and duties.

This committee was established in the 93d Congress effective July 12, 1974 by sec. 101 of the Congressional Budget Act of 1974 (88 Stat. 299), and its membership was increased from twenty-three to twenty-five, with thirteen rather than eleven members to be elected from committees other than Appropriations and Ways and Means effective January 14, 1975 (H. Res. 5, 94th Congress, p. 20). The membership was increased again in the 97th Congress (H. Res. 5, Jan. 5, 1981, pp. 98-113), to thirty Members, twenty-eight of whom are members of other standing committees as well as two from the parties' leaderships, and on February 7, 1983, the membership was increased to thirty-one by unanimous consent for the remainder of the 98th Congress (p. ——). This clause was amended in the 99th Congress to remove any numerical limitation on the membership of the Committee on the Budget (H. Res. 7, Jan. 3, 1985, p. 393) and by sec. 232(h) of P.L. 99-177, the Balanced Budget and Emergency Deficit Control Act of 1985 (Dec. 12, 1985), to confer jurisdiction over Senate joint or concurrent resolutions constituting Congressional response to a Presidential sequestration order issued pursuant to the report of the Comptroller General under sec. 252(b) of that law. This clause was technically amended in the 100th Congress to eliminate as obsolete the words "beginning after 1974" following "any period of five successive Congresses" as a measure of permissible terms of service on the committee (H. Res. 5, Jan. 6, 1987, p.——). The separate subpoena authority conferred upon the committee by sec. 101(b) of that Act has been superceded by the general grant of subpoena authority conferred upon all committees by clause 2(m) of Rule XI (H. Res. 988, 93d Congress p. 34470). While the committee's legislative jursidiction is limited to the matters as set forth in clause 1(e)(2), the committee's duties in addition to those contained in clause 1(e)(3) include its special oversight function of studying the effect of budget outlays on existing and proposed legislation, and of studying tax policies and coordinating them with budget outlays, and reporting to the House thereon (clause 3(b), Rule X); and its duties also include those set forth in clause 4(b), Rule X requiring studies of programs exempt from inclusion in the budget and recommendations for terminating or modifying such programs.

The rule was amended in the 96th Congress (H. Res. 5, Jan. 15, 1979, p. 8) to increase the limitation on Members' service on the committee from two to three Congresses in any period of five successive Congresses, to exempt representatives from the party leaderships from the limitation, and to permit an incumbent chairman having served on the committee for three Congresses and as chairman for not more than one Congress to be eligible for reelection as chairman for one additional Congress. It was further amended in the 101st Congress (H. Res. 5, Jan. 3, 1989, p. ——) to permit, in that Congress only, a minority Member who has served on the committee for three terms to run within his party's caucus for the position of ranking minority Member and thus be able to serve on the committee for one additional Congress, and to permit a Member elected as ranking minority Member during his third term on the committee to serve one additional term on the committee should he be re-elected as the ranking minority Member.

(f) Committee on the District of Columbia.

§ 675. District of Columbia.

(1) All measures relating to the municipal affairs of the District of Columbia in general, other than appropriations therefor, including—

(2) Adulteration of foods and drugs.

(3) Incorporation and organization of societies.

(4) Insurance, executors, administrators, wills, and divorce.

(5) Municipal code and amendments to the criminal and corporation laws.

(6) Municipal and juvenile courts.

(7) Public health and safety, sanitation, and quarantine regulations.

(8) Regulation of sale of intoxicating liquors.

(9) Taxes and tax sales.

(10) Saint Elizabeths hospital.

This committee was established in 1808 (IV, 4276). The jurisdiction as defined in the rule was made effective January 2, 1947, as a part of the Legislative Reorganization Act of 1946 (60 Stat. 812). Jurisdiction over Saint Elizabeths Hospital (par. 10) formerly within the jurisdiction of the Committee on Education and Labor, was transferred to this committee effective January 3, 1975 (H. Res. 988, 93d Congress, p. 34470).

It reports bills proposing legislation as to the general municipal affairs of the District (IV, 4277), relating to health, sanitary and quarantine regulations (IV, 4284; VII, 2008), holidays (IV, 4283; VII, 2011), protection of fish and game (IV, 4282), regulation of sale of intoxicating liquors (IV, 4280), adulteration of food, drugs, etc. (IV, 4280), taxes and tax sales (IV, 4279), insurance (IV, 4278), bills for preserving public order at times of inaugurations (IV, 4292), harbor regulations and the bridge over the Eastern Branch (IV, 4286), executors, administrators, wills, and divorce (IV, 4289), police and juvenile courts and justices of the peace (IV, 4290), incorporation and organization of societies (IV, 4288; VII, 2006, 2013), including amendments to a statute, reported by the committee, providing for the incorporation of an organization as a District of Columbia corporation (June 20, 1984, p. ——); municipal code and amendments to the criminal and corporation laws (IV, 4287; VII, 2007). The jurisdiction of this committee as to matters affecting the higher courts of the District has been exceptional rather than general (IV, 4291). The committee has jurisdiction over regulations to coordinate the development of the District with that of other areas in the metropolitan region (Jan. 14, 1960, p. 560); parking facilities in the District (Jan. 29, 1969, p. 2101); grants to George Washington University for hospital construction (Sept. 5, 1961, p. 18132); courts-martial of the District of Columbia militia (May 4, 1972, p. 15778); and choice of a site by the National Capital Planning Commission for the erection of a statue (Sept. 14, 1962, p. 20226). The committee also has functions under the D.C. Home Rule Act (87 Stat. 774), see § 1013 (A-4), infra.

(g) **Committee on Education and Labor.**

(1) Measures relating to education or labor generally.

§ 676. Education and Labor.

(2) Child labor.

(3) Columbia Institution for the Deaf, Dumb, and Blind; Howard University; Freedmen's Hospital.

(4) Convict labor and the entry of goods made by convicts into interstate commerce.

(5) Labor standards.

(6) Labor statistics.

(7) Mediation and arbitration of labor disputes.

(8) Regulation or prevention of importation of foreign laborers under contract.

(9) Food programs for children in schools.

(10) United States Employees' Compensation Commission.

(11) Vocational rehabilitation.

(12) Wages and hours of labor.

(13) Welfare of miners.

(14) Work incentive programs.

In addition to its legislative jurisdiction under the preceding provisions of this paragraph (and its general oversight function under clause 2(b)(1)), the committee shall have the special oversight function provided for in clause 3(c) with respect to domestic educational programs and institutions, and programs of student assistance, which are within the jurisdiction of other committees.

This committee was established January 2, 1947, as part of the Legislative Reorganization Act of 1946 (60 Stat. 812), and combined the Committees on Education (created in 1867, IV, 4242) and Labor (created in 1883, IV, 4244). The Columbia Institute for the Deaf, Dumb, and Blind was renamed "Gallaudet College" (68 Stat. 265), and Freedmen's Hospital is now a part of Howard University. Jurisdiction of this committee over education and vocational rehabilitation does not include those subjects as they relate to veterans, as they are under the jurisdiction of the Committee on Veterans' Affairs (clause 1(u)(3), Rule X). Effective January 3, 1975 (H. Res. 988, 93d Congress, p. 34470), this committee was given jurisdiction over food programs for children in schools (par. 9) (an expansion of jurisdiction over school-lunch programs formerly within the committee), work incentive programs (par. 14), and Indian education (a matter formerly within the specific jurisdiction of the Committee on Interior and Insular Affairs but eliminated from clause 1(l)(6), Rule X). Jurisdiction formerly within the committee over international education matters was specifically transferred to the Committee on Foreign Affairs (clause 1(i)(17), Rule X). The Committee has jurisdiction over bills dealing with juvenile delinquency (Jan. 22, 1959, p. 1027), runaway youth (July 12, 1973, p. 23633; Sept. 10, 1973, p. 28970), human services programs administered by HEW (June 21, 1972, p. 21733), education of Indians (Apr. 15, 1975, p. 10247), and compensation for work injuries to Federal employees (Apr. 16, 1975, p. 10339) and has joint jurisdiction over an executive communication proposing draft legislation amending the Labor Management Relations Act and the Employee Retirement Income Security Act (Mar. 24, 1983, p. ——).

The committee's special oversight function provided in clause 3(c), Rule X was also added effective January 3, 1975 (H. Res. 988, 93d Congress, p. 34470).

(h) Committee on Energy and Commerce.

(1) Interstate and foreign commerce generally.

§ 677. Energy and Commerce.

(2) National energy policy generally.

(3) Measures relating to the exploration, production, storage, supply, marketing, pricing, and regulation of energy resources, including all fossil fuels, solar energy, and other unconventional or renewable energy resources.

(4) Measures relating to the conservation of energy resources.

(5) Measures relating to the commercial application of energy technology.

(6) Measures relating to energy information generally.

(7) Measures relating to (A) the generation and marketing of power (except by federally chartered or Federal regional power marketing authorities), (B) the reliability and interstate transmission of, and ratemaking for, all power, and (C) the siting of generation facili-

ties; except the installation of interconnections between Government waterpower projects.

(8) Interstate energy compacts.

(9) Measures relating to general management of the Department of Energy, and the management and all functions of the Federal Energy Regulatory Commission.

(10) Inland waterways.

(11) Railroads, including railroad labor, railroad retirement and unemployment, except revenue measures related thereto.

(12) Regulation of interstate and foreign communications.

(13) Securities and exchanges.

(14) Consumer affairs and consumer protection.

(15) Travel and tourism.

(16) Public health and quarantine.

(17) Health and health facilities, except health care supported by payroll deductions.

(18) Biomedical research and development.

Such committee shall have the same jurisdiction with respect to regulation of nuclear facilities and of use of nuclear energy as it has with respect to regulation of nonnuclear facilities and of use of nonnuclear energy. In addition to its legislative jurisdiction under the preceding provisions of this paragraph (and its general oversight functions under clause 2 (b)(1)), such committee shall have the special oversight functions provided for in clause (3)(h) with respect to all laws, programs, and Government activities affecting nuclear and other energy.

The committee dates from 1795 (IV, 4096). Effective January 3, 1975 (H. Res. 988, 93d Congress, p. 34470), the name of the committee was changed to the Committee on Commerce and Health. Effective January 14, 1975, it was redesignated as the Committee on Interstate and Foreign Commerce (H. Res. 5, 94th Congress, p. 20). The Committee was redesignated again as the Committee on Energy and Commerce and given its present jurisdiction (H. Res. 549, 96th Congress, March 25, 1980, pp. 6405–10, with inter-committee memoranda of understanding) effective January 3, 1981. On that date the Committee obtained specific jurisdiction over national energy policy generally (par. 2), measures relating to exploration, production, storage, supply, marketing, pricing, and regulation of energy resources (par. 3), measures relating to conservation of energy resources (par. 4), measures relating to the commercial application of energy technology (par. 5), measures relating to energy information generally (par. 6), measures relating to the generation, marketing, interstate transmission of, and ratemaking for power as well as the siting of generation facilities, with certain exceptions (par. 7), interstate energy compacts (par. 8), and measures relating to the management of the Department of Energy and the Federal Energy Regulatory Commission (par. 9). On January 3, 1975, the committee obtained specific jurisdiction over consumer affairs and consumer protection (par. 14), travel and tourism (par. 15), health and health facilities, except health care supported by payroll deductions (par. 17) (a matter formerly within the jurisdiction of the Committee on Ways and Means), and biomedical research and development (par. 18). On that date, the committee relinquished jurisdiction over civil aeronautics to the Committee on Public Works and Transportation (clause 1(p)(10), Rule X), over civil aviation research and development, energy and environmental research and development, and the National Weather Service to the Committee on Science and Technology (clause 1(r)(9)–(12), Rule X), and over the Trading with the Enemy Act to the Committee on Foreign Affairs (clause 1(i)(16), Rule X). On July 21, 1958, p. 14513, matters relating to the Bureau of Standards, standardization of weights and measures, and the metric system (conferred on the committee by the Legislative Reorganization Act of 1946, 60 Stat. 812), were transferred to the Committee on Science and Astronautics (now Science, Space, and Technology). On January 4, 1977 (H. Res. 5, 95th Cong., pp. 53–70), when the legislative jurisdiction in the House of the Joint Committee on Atomic Energy was transferred to various standing committees, the Committee on Interstate and Foreign Commerce was given the same jurisdiction over nuclear energy as it had over non-nuclear energy and facilities by the addition of the last paragraph of clause (h). The Committee now has the special oversight responsibility under clause 3(h) of Rule X as well as the general oversight responsibility required by clause 2(b). This special oversight responsibility was expanded in the 96th Congress to include other energy besides nuclear energy, effective January 3, 1981 (H. Res. 549, March 25, 1980, pp. 6405–

10). In the 94th Congress, the committee gained jurisdiction over bills amending the Lead-Based Paint Poisoning Prevention Act and bills dealing with nursing home construction as public health matters (June 10, 1975, p. 18009).

It formerly reported the river and harbor appropriation bill, but in 1883 a Committee on Rivers and Harbors was created to care for this bill (IV, 4096). Since the Sixty-sixth Congress these appropriations have been reported by the Appropriations Committee. The rule was amended in the Seventy-fourth Congress depriving the Committee on Interstate and Foreign Commerce of its jurisdiction over bills dealing with water transportation, Coast Guard, life-saving service, lighthouses, lightships, ocean derelicts, Coast and Geodetic Survey, and the Panama Canal and jurisdiction over those subjects was vested in the Committee on Merchant Marine and Fisheries while exclusive jurisdiction over bills relating to radio was transferred to the Committee on Interstate and Foreign Commerce (VII, 1814, 1847).

Bills relating to the Department of Commerce and the Interstate Commerce Commission (IV, 4098) have been reported by this committee, but the Committee on Public Works and Transportation now has jurisdiction over the Interstate Commerce Commission except with respect to railroads (clause 1(p)(13), Rule X).

The Committee on Energy and Commerce has general jurisdiction of bills affecting domestic and foreign commerce, except such as may affect the revenue (IV, 4097).

It also has jurisdiction of bills authorizing the construction of marine hospitals and the acquisition of sites therefor (IV, 4110; VII, 1816), the general subjects of quarantine and the establishment of quarantine stations (IV, 4109), health, spread of leprosy and other contagious diseases, international congress of hygiene, etc. (IV, 4111), bills declaring as to whether or not streams are navigable and for preventing or regulating hindrances to navigation (IV, 4101; VII, 1810), such as bridges (IV, 4099; VII, 1812) and dams, except such bridges and dams as are a part of river improvements (IV, 4100; VII, 1810). This committee formerly had jurisdiction of bills proposing construction of bridges across navigable streams which are now banned (§ 852; see also General Bridge Act, 33 U.S.C. 525, 533).

The Committee on Energy and Commerce considers bills regulating railroads in their interstate commerce relations (IV, 4114), bills relating to commercial travelers as agents of interstate commerce and the branding of articles going into such commerce (IV, 4115), the prevention of the carriage of indecent and harmful pictures or literature (IV, 4116), the adulteration, misbranding, etc., of foods and drugs (IV, 4112), and protection of game through prohibition of interstate transportation (IV, 4117). The committee has jurisdiction over bills imposing safety standards on motor vehicles purchased by the U.S. Government (Feb. 16, 1959, p. 2420), bills creating civil remedies for false advertising or other violations of commercial ethics (June 4, 1962, p. 9601), bills to assist financing of the Arctic Winter Games in Alaska (June 7, 1972, p. 19935), over executive communications submitting reports under the Developmental Disabilities Act (Public Law 95-602) relating to mental health (June 1, 1981, p. 11028), and has joint jurisdiction, with the Committee on Banking, Finance and Urban Affairs over a bill to amend the Federal Reserve Act to impose reserve requirements on the assets of "open-end investment companies" which offer transaction accounts by negotiable instrument to depositors (Mar. 18, 1981, p. 4610).

(i) **Committee on Foreign Affairs.**

(1) Relations of the United States with foreign nations generally.

§ 678. Foreign Affairs.

(2) Acquisition of land and buildings for embassies and legations in foreign countries.

(3) Establishment of boundary lines between the United States and foreign nations.

(4) Foreign loans.

(5) International conferences and congresses.

(6) Intervention abroad and declarations of war.

(7) Measures relating to the diplomatic service.

(8) Measures to foster commercial intercourse with foreign nations and to safeguard American business interests abroad.

(9) Neutrality.

(10) Protection of American citizens abroad and expatriation.

(11) The American National Red Cross.

(12) United Nations Organizations.

(13) Measures relating to international economic policy.

(14) Export controls, including nonproliferation of nuclear technology and nuclear hardware.

(15) International commodity agreements (other than those involving sugar), including all agreements for cooperation in the export of nuclear technology and nuclear hardware.

(16) Trading with the enemy.

(17) International education.

In addition to its legislative jurisdiction under the preceding provisions of this paragraph (and its general oversight function under clause 2(b)(1)), the committee shall have the special oversight functions provided for in clause 3(d) with respect to customs administration, intelligence activities relating to foreign policy, international financial and monetary organizations, and international fishing agreements.

This committee was established in 1822 (IV, 4162), and had authority to report appropriations from 1885 to 1920. On March 19, 1975, the name of the committee was changed from Foreign Affairs to International Relations (H. Res. 163, 94th Congress, p. 7343); but on February 5, 1979, the name of the committee was changed back to Foreign Affairs and the subparagraph renumbered accordingly (H. Res. 89, pp. 1848–9).

The jurisdiction as defined in the final four clauses of the rule was made effective January 3, 1975 (H. Res. 988, 93d Congress, p. 34470). On that date, in addition to the jurisdiction vested in the committee by the Legislative Reorganization Act of 1946 (60 Stat. 812), the committee obtained jurisdiction over measures relating to international economic policy (par. 13) and export controls (par. 14) (formerly within the jurisdiction of the Committee on Banking and Currency), international commodity agreements other than sugar (par. 15) (formerly within the jurisdiction of the Committee on Agriculture), trading with the enemy (par. 16) (formerly within the jurisdiction of the Committee on Interstate and Foreign Commerce), and international education (par. 17), while the committee lost jurisdiction over international financial and monetary organizations to the Committee on Banking, Currency and Housing (clause 1(d)(8), Rule X), and over international fishing agreements to the Committee on Merchant Marine and Fisheries (clause 1(n)(12), Rule X). When the legislative jurisdiction in the House of the Joint Committee on Atomic Energy was abolished on January 4, 1977 (H. Res. 5, 95th Cong., pp. 53-70), the Committee on Foreign Affairs was given jurisdiction over non-proliferation of nuclear technology and hardware, contained in paragraph (14), and over international agreements on nuclear exports, contained in paragraph (15).

It has a broad jurisdiction over foreign relations, including bills to establish boundary lines between the United States and foreign nations, to determine naval strength, and regulate bridges and dams on international waters (IV, 4166; see also "General Bridge Act," 33 U.S.C. 525, 533), for the protection of American citizens abroad and expatriation (IV, 4169; VII, 1883), for extradition with foreign nations, international arbitration, relating to violation of neutrality (IV, 4178a), international conferences and congresses (IV, 4177; VII, 1884), the incorporation of the American National Red Cross and protection of its insignia (IV, 4173), intervention abroad and declarations of war (IV, 4164; VII 1880), affairs of the consular service, including acquisition of land and buildings for legations in foreign capitals (IV, 4163; VII, 1879), creation of courts of the United States in foreign countries (IV, 4167), treaty regulations as to protection of fur seals (IV, 4170), matters relating to the Philippines (see 60 Stat. 315), and measures establishing a District of Columbia corporation to support private American organizations engaged in communications with foreign nations (June 21, 1971, p. 21062).

The committee has also considered measures for fostering commercial intercourse with foreign nations and for safeguarding American business interests abroad (IV, 4175), and even the subjects of commercial treaties and reciprocal arrangements (IV, 4174), although in later practice the Committee on Ways and Means has considered such matters (IV, 4021). The committee has exercised a general but not exclusive jurisdiction over legislation relating to claims having international relations (IV, 4168; VII, 1882). Pursuant to its jurisdiction over international education, the Committee on Foreign Affairs (and not the Committee on Education and Labor) has jurisdiction over bills establishing scholarship programs for foreign students (May 10, 1988, p. ——).

The special oversight function of the committee as set forth in clause 3(d), Rule X was made effective January 3, 1975 (H. Res. 988, 93d Congress, p. 34470).

(j) Committee on Government Operations.

(1) Budget and accounting measures, other than appropriations.

§ 679. Government Operations.

(2) The overall economy and effi-

ciency of Government operations and activities, including Federal procurement.

(3) Reorganizations in the executive branch of the Government.

(4) Intergovernmental relationships between the United States and the States and municipalities, and general revenue sharing.

(5) National archives.

(6) Measures providing for off-budget treatment of Federal agencies or programs.

In addition to its legislative jurisdiction under the preceding provisions of this paragraph (and its oversight functions under clause 2(b) (1) and (2)), the committee shall have the function of performing the activities and conducting the studies which are provided for in clause 4(c).

The name of this committee was on July 3, 1952, p. 9217, changed from "Expenditures in the Executive Departments" to "Government Operations." The former Committee on Expenditures in the Executive Departments was established December 5, 1927 (VII, 2041), and took the place of eleven separate committees on expenditures in the several executive departments. The first of these committees was established in 1816, and others were added as new departments were created (IV, 4315). They reported bills relating to the efficiency and integrity of the public service (IV, 4320), and creation and abolition of offices (IV, 4318).

On January 3, 1975 (H. Res. 988, 93d Congress, p. 34470), in addition to the jurisdiction vested in the committee by the Legislative Reorganization Act of 1946 (60 Stat. 812), the committee obtained jurisdiction over measures relating to the overall economy and efficiency of Government operations and activities, including Federal procurement (par. 2), intergovernmental relationships and general revenue sharing (par. 4) (the latter subject formerly within the jurisdiction of the Committee on Ways and Means), and the National archives (par. 5) (formerly within the jurisdiction of the Committee on Post Office and Civil Service). The subparagraph was renumbered on Feb. 5, 1979 (H. Res. 89, pp. 1848-9). Paragraph (6) relating to off-budget agencies and programs was added by sec. 225 of P.L. 99-177, the Balanced Budget and Emergency Deficit Control Act of 1985 (Dec. 12, 1985). The committee has exercised jurisdiction of bills establishing the Rural Electrification Administration as an independent agency and transferring certain functions thereto (Mar. 19, 1959, p. 4692), establishing a Commission on Population Growth (Sept. 23, 1969, p. 26568), establishing a Cabinet Committee on Opportunities for Spanish-Speaking Americans (Nov. 24, 1969, p. 35509), and bills providing payment of travel costs for Federal employment applicants (Feb. 15, 1967, p. 3466); and the committee has jurisdiction over countercyclical programs of revenue-sharing grants to State and local governments, such as that contained in Title II of the Public Works Employment Act of 1976 (Feb. 1, 1977, p. 3057).

The specific subpoena authority conferred upon the committee in the standing rules on February 10, 1947, p. 942, has been superseded by the general conferral of subpoena authority on all committees contained in clause 2(m), Rule XI. Effective January 3, 1975 (H. Res. 988, 93d Congress, p. 34470), the committee was given the general function of examining and reporting upon reports of the Comptroller General, evaluating laws reorganizing the legislative and executive branches, and studying intergovernmental relationships domestically and with international organizations to which the U.S. belongs (clause 4(c)(1), Rule X).

(k) Committee on House Administration.

(1) Appropriations from the contingent fund.

§ 680a. House Administration.

(2) Auditing and settling of all accounts which may be charged to the contingent fund.

(3) Employment of persons by the House, including clerks for Members and committees, and reporters of debates.

(4) Except as provided in clause 1(p)(4), matters relating to the Library of Congress and the House Library; statuary and pictures; acceptance or purchase of works of art for the Capitol; the Botanic Gardens; management of the Library of Congress; purchase of books and manuscripts; erection of monuments to the memory of individuals.

(5) Except as provided in clause 1(p)(4), matters relating to the Smithsonian Institution and the incorporation of similar institutions.

(6) Expenditure of contingent fund of the House.

(7) Matters relating to printing and correction of the Congressional Record.

(8) Measures relating to accounts of the House generally.

(9) Measures relating to assignment of office space for Members and committees.

(10) Measures relating to the disposition of useless executive papers.

(11) Measures relating to the election of the President, Vice President, or Members of Congress; corrupt practices; contested elections; credentials and qualifications; and Federal elections generally.

(12) Measures relating to services to the House, including the House Restaurant, parking facilities and administration of the House Office Buildings and of the House wing of the Capitol.

(13) Measures relating to the travel of Members of the House.

(14) Measures relating to the raising, reporting and use of campaign contributions for candidates for office of Representative in the House of Representatives and of Resident Commissioner to the United States from Puerto Rico.

(15) Measures relating to the compensation, retirement and other benefits of the Members, officers, and employees of the Congress.

In addition to its legislative jurisdiction under the preceding provisions of this paragraph (and its general oversight function under clause 2(b)(1)), the committee shall have the function of performing the duties which are provided for in clause 4(d).

This committee was created January 2, 1947, as a part of the Legislative Reorganization Act of 1946 (60 Stat. 812), and combined the Committees on Accounts (created in 1803, IV, 4328), Enrolled Bills (created in 1789, IV, 4350), Disposition of Executive Papers (created in 1889, IV, 4419), Printing (created in 1846), Elections (created in 1794 and divided into three committees in 1895, IV, 4019), Election of President, Vice President, and Representatives in Congress (created in 1893, IV, 4299), and Memorials (created January 3, 1929, VII, 2080).

§ 680b. House facilities.

The Committee on House Administration now has jurisdiction over measures relating to the House Restaurant which was first under the jurisdiction of the former Committee on Accounts, then under the supervision of the Architect of the Capitol (H. Res. 590, 76th Cong., September 5, 1940, p. 11552, as made permanent law by Public Law 76-812, 40 U.S.C. 174k), and then under the supervision of the Select Committee on the House Restaurant (H. Res. 472, 91st Cong., July 10, 1969, p. 19080; H. Res. 111, 93d Cong., February 7, 1973) which was not re-established after the 93d Congress.

Effective January 3, 1975 (H. Res. 988, 93d Congress, p. 34470), the committee obtained jurisdiction over parking facilities of the House (par. 12) (a matter formerly assigned to a select committee), and on January 14, 1975 (H. Res. 5, 94th Congress, p. 20), the committee was given jurisdiction over campaign contributions to candidates for the House (par. 14) (formerly within the jurisdiction of the Committee on Standards of Official Conduct), and over compensation, retirement and other benefits of Members, officers and employees of Congress (par. 15) (although the Committee on Post Office and Civil Service also retains jurisdiction in this area under clause 1(o)(5), Rule X). The subparagraph was renumbered on Feb. 5, 1979 (H. Res. 89, pp. 1848-9). The Committee on House Administration has jurisdiction over resolutions authorizing committees to employ additional professional and clerical personnel (Feb. 7, 1966, p. 2373). The committee has supervisory authority over the House barber shops, beauty shops, House Information Systems, and the Office of Placement and Management (the latter formerly within the jurisdiction of the former Joint Committee on Congressional Operations and of the former Select Committee on Congressional Operations.

§ 680c. Enrolled bills.

The Committee on House Administration has absorbed the Committee on Enrolled Bills which was established in 1789 by a joint rule of the two houses. This rule lapsed in 1876 with the other joint rules; but in 1880 the rules of the House were amended so as to recognize the joint committee (IV, 4350, 4416; VII, 2099). The Committee on House Administration and the Secretary of the Senate make comparisons of bills of their own house for enrollment and the two cooperate in the interchange of bills for signature.

§ 680d. Library.

The Committee on House Administration under the Reorganization Act has jurisdiction of some of the subjects formerly within the jurisdiction of the Joint Committee on the Library, such as matters relating to the Library of Congress and the House Library, statuary and pictures, acceptance or purchase of works of art for the Capitol, the Botanic Gardens, management of the Library of Congress, purchase of books and manuscripts, erection of monuments to the memory of individuals, matters relating to the Smithsonian Institution, and the incorporation of similar institutions; except measures relating to the construction or reconstruction, maintenance, and care of the buildings and grounds of the Botanic Gardens, the Library of Congress, and the Smithsonian Institution, which functions are now under the Committee on Public Works. The House Members of the Joint Committee on the Library, provided for by law (2 U.S.C. 132b), are elected by resolution each Congress.

§ 680e. Congressional Record.

The Committee on House Administration has jurisdiction of matters relating to printing and correction of the Congressional Record, formerly within the jurisdiction of the Committee on Printing. The House Members of the Joint Committee on Printing, provided for by law (44 U.S.C. 1), are elected by resolution each Congress.

The Committee on House Administration has jurisdiction of measures relating to the election of the President, Vice President, or Members of Congress; corrupt practices; contested elections; credentials and qualifications; Federal elections generally, and the Electoral count which formerly was within the jurisdiction of a Committee on Election of the President, Vice President, and Representatives in Congress (IV, 4303).

The special oversight functions placed upon the committee by clause 4(d), Rule X effective January 3, 1975 (H. Res. 988, 93d Congress, p. 34470), restate the responsibility of the committee of examining enrolled bills and of reporting on Members' travel to the Sergeant-at-Arms, and impose the additional duty of providing through the House Information Systems a scheduling service to eliminate committee scheduling conflicts (clause 4(d)(3)).

(l) **Committee on Interior and Insular Affairs.**

§ 681. Interior and Insular Affairs.

(1) Forest reserves and national parks created from the public domain.

(2) Forfeiture of land grants and alien ownership, including alien ownership of mineral lands.

(3) Geological Survey.

(4) Interstate compacts relating to apportionment of waters for irrigation purposes.

(5) Irrigation and reclamation, including water supply for reclamation projects, and easements of public lands for irrigation projects, and acquisition of private lands when necessary to complete irrigation projects.

(6) Measures relating to the care and management of Indians, including the care and allotment of Indian lands and general and special measures relating to claims which are paid out of Indian funds.

(7) Measures relating generally to the insular possessions of the United States, except those affecting the revenue and appropriations.

(8) Military parks and battlefields; national cemeteries administered by the Secretary of the Interior, and parks within the District of Columbia.

(9) Mineral land laws and claims and entries thereunder.

(10) Mineral resources of the public lands.

(11) Mining interests generally.

(12) Mining schools and experimental stations.

(13) Petroleum conservation on the public lands and conservation of the radium supply in the United States.

(14) Preservation of prehistoric ruins and objects of interest on the public domain.

(15) Public lands, generally, including entry, easements, and grazing thereon.

(16) Relations of the United States with the Indians and the Indian tribes.

(17) Regulation of the domestic nuclear energy industry, including regulation of research and development reactors and nuclear regulatory research.

In addition to its legislative jurisdiction under the preceding provisions of this paragraph (and its general oversight function under clause 2(b)(1)), the committee shall have the special oversight functions provided for in clause 3(e) with respect to all programs affecting Indians and nonmilitary nuclear energy and research and development including the disposal of nuclear waste.

The name of this committee was on February 2, 1951, p. 883, changed from "Public Lands" to "Interior and Insular Affairs." The Committee on Public Lands was created in 1805 (IV, 4194). The jurisdiction as defined in the rule, except paragraph 17, was made effective January 3, 1975 (H. Res. 988, 93d Congress, p. 34470). On that date, the committee retained much of the jurisdiction it had received effective January 2, 1947, as a part of the Legislative Reorganization Act of 1946 (60 Stat. 812) which had combined the Committees on Mines and Mining (created in 1865, IV, 4223), Insular Affairs (created in 1899, IV, 4213), Irrigation and Reclamation (created in 1893, IV, 4307), Indian Affairs (created in 1821, IV, 4204), and Territories (created in 1825, IV, 4208). The subject of military parks, battlefields, and national cemeteries given this committee under the Reorganization Act was formerly under jurisdiction of a Committee on Military Affairs which was absorbed by the Committee on Armed Services. Jurisdiction over cemeteries of the United States in which veterans may be buried, except those administered by the Secretary of the Interior, was transferred to the Committee on Veterans' Affairs on Oct. 20, 1967 (H. Res. 241). The subject of welfare of men working in mines formerly under the jurisdiction of a Committee on Mines and Mining, which committee was absorbed by the Committee on Interior and Insular Affairs, was vested in the Committee on Education and Labor by the Reorganization Act (60 Stat. 812). Effective January 3, 1975, the committee obtained jurisdiction over parks within the District of Columbia (par. 8) (a matter formerly within the jurisdiction of the Committee on Public Works), and lost specific jurisdiction over Hawaii and Alaska generally, and over Indian education.

When the legislative jurisdiction in the House of the Joint Committee on Atomic Energy was abolished on January 4, 1977 (H. Res. 5, 95th Congress, pp. 53–70), the Committee on Interior and Insular Affairs was given the jurisdiction defined in paragraph (17) over regulation of the domestic nuclear energy industry. The subparagraph was renumbered on Feb. 5, 1979 (H. Res. 89, pp. 1848–9).

It reports on subjects relating to the mineral resources of the public lands (IV, 4202), forfeiture of land grants and alien ownership (IV, 4201), public lands of Alaska (IV, 4196), forest reserves (IV, 4197), and national parks created out of the public domain (IV, 4199; VII, 1925) including measures relating to criminal trespass provisions applying only within national forests created from the public domain (July 18, 1977, p. 23434), admission of States (IV, 4208), preservation of prehistoric ruins and objects of interest on the public domain (IV, 4199), and sometimes to projects of general legislation relating to various classes of land claims (IV, 4203). The committee also has jurisdiction over bills relating to proceeds from disposal of oil shale on public lands (other than Naval Oil Shale Reserves) (Aug. 3, 1967, p. 21179), to exclude certain lands in the outer continental shelf from mineral leasing provisions of the Outer Continental Shelf Lands Act (May 16, 1963, p. 8777), reinstating a U.S. oil and gas lease (Aug. 5, 1959, p. 15190), U.S. claims to lands along the Colorado River forming state boundaries (June 28, 1967, p. 17738), bills designating national forest lands created from the public domain as wilderness (May 6, 1969, p. 11459), bills including additional units in the Missouri River Basin project (Sept. 8, 1959, p. 18587), and bills establishing a commission on development of Pennsylvania Avenue in D.C. as a national historic site (Oct. 21, 1965, p. 27803), bills authorizing the Secretary of the Interior to conduct a feasibility investigation of potential water resource development (May 1, 1975, p. 12764), bills to establish a commission to consider the creation of a (Hudson) River Compact (July 21, 1975, p. 23653), and bills to name a building constructed as part of a federal recreation area (June 8, 1988, p. ——).

Effective January 3, 1975 (H. Res. 988, 93d Congress, p. 34470), the committee was given the special oversight function provided in clause 3(e), Rule X.

The authority of the committee to report as privileged on bills for the forfeiture of land grants to railroad and other corporations, bills preventing speculation in the public lands, bills for the preservation of the public lands for the benefit of actual and bona fide settlers, and bills for the admission of new States was eliminated effective January 3, 1975 (H. Res. 988, 93d Congress, p. 34470; see clause 4(a), Rule XI).

(m) **Committee on the Judiciary.**

§ 682a. Judiciary. (1) Judicial proceedings, civil and criminal generally.

(2) Apportionment of Representatives.

(3) Bankruptcy, mutiny, espionage, and counterfeiting.

(4) Civil liberties.

(5) Constitutional amendments.

(6) Federal courts and judges.

(7) Immigration and naturalization.

(8) Interstate compacts generally.

(9) Local courts in the Territories and possessions.

(10) Measures relating to claims against the United States.

(11) Meetings of Congress, attendance of Members and their acceptance of incompatible offices.

(12) National penitentiaries.

(13) Patent Office.

(14) Patents, copyrights, and trademarks.

(15) Presidential succession.

(16) Protection of trade and commerce against unlawful restraints and monopolies.

(17) Revision and codification of the Statutes of the United States.

(18) State and territorial boundary lines.

(19) Communist and other subversive activi-

§ 682b. Internal Security.

ties affecting the internal security of the United States.

This committee dates from 1813 (IV, 4054). The essential jurisdiction as defined in the rule was made effective January 2, 1947, as a part of the Legislative Reorganization Act of 1946 (60 Stat. 812), and combined the Committees on Revision of Laws (created 1868, IV, 4293), Patents (created in 1837, IV, 4254), Immigration and Naturalization (created in 1893, IV, 4309), Claims (created in 1794, IV, 4262), and War Claims (created in 1883, IV, 4269). Effective January 3, 1975 (H. Res. 988, 93d Congress, p. 34470), the committee's jurisdiction over holidays and celebrations was transferred to the Committee on Post Office and Civil Service (clause 1(o)(7), Rule X). On January 14, 1975 (H. Res. 5, 94th Congress, p. 20), the Committee on Internal Security was abolished and jurisdiction over communist and other subversive activities affecting the internal security of the United States was transferred to the committee (par. 19). A provision in the latter amendment to this clause, transferring records and staff of the Internal Security Committee to the Judiciary Committee, was deleted as obsolete on January 4, 1977 (H. Res. 5, 95th Congress, pp. 53–70). Under paragraph 15, the committee has jurisdiction over Presidential nominations to fill vacancies in the office of Vice President, submitted pursuant to the 25th Amendment (October 13, 1973, p. 34032; August 20, 1974, p. 29366), and the committee has reported Articles of Impeachment of the President (August 20, 1974, pp. 29219–81). Where the House has voted impeachment, members of the Committee have been appointed as managers on the part of the House in presenting the charges to the Senate for trial (H. Res. 501, 99th Congress, July 22, 1986, p. ——; H. Res. 511, 100th Congress, Aug. 3, 1988, p. ——; H. Res. 12, 101st Congress, Jan 3, 1989, p.——).

It considers charges against judges of the United States courts (IV, 4062), legislative propositions relating to the service of the Department of Justice (IV, 4067), bills relating to local courts in the District of Columbia, Alaska, and the Territories (IV, 4068), the establishment of a court of patent appeals (IV, 4075), relations of labor to courts and corporations (IV, 4072), crimes penalties, extradition (IV, 4069; VII, 1747), construction and management of national penitentiaries (IV, 4070), matters relating to trusts and corporations (IV, 4057, 4059, 4060; VII, 1764), claims of States against the United States (IV, 4080), general legislation relating to international and other claims (IV, 4078, 4079, 4081), bills relating to the office of President (IV, 4077), to the flag (IV, 4055), bankruptcy (IV, 4065), removal of political disabilities (IV, 4058), prohibition of traffic in intoxicating liquors (IV, 4061; VII, 1773), mutiny and willful destruction of vessels (IV, 4145), counterfeiting (IV, 4071; VII, 1753), settlement of State and Territorial boundary lines (IV, 4060; VII, 1768), meeting of Congress and attendance of Members and their acceptance of incompatible offices (IV, 4077, VI, 65). This committee also has jurisdiction over joint resolutions proposing amendments to the Constitution (IV, 4056; VII, 1779). It also reports on important questions of law relating to subjects naturally within the jurisdiction of other committees (IV, 4063).

The committee also has jurisdiction over bills regulating the authority of States to impose taxes on interstate commerce (June 18, 1959, p. 11317), imposing conflict of interest standards and civil and criminal penalties relating thereto on government employees (Feb. 25, 1960, p. 3484), establishing an Academy of Criminal Justice (Apr. 5, 1965, p. 6822), to eliminate racketeering in the interstate sale of cigarettes (Feb. 9, 1972, p. 3429), providing workmen's compensation for non-U.S. employed firemen killed during civil disorder (May 6, 1968, p. 11798), authorizing the Attorney General to consent to a modification of a certain trust on behalf of the Library of Congress (Aug. 17, 1959, p. 16051), bills amending an omnibus pension act to increase the amount of pension granted a certain class of persons (Feb. 15, 1960, p. 2523), imposing criminal sanctions under the Controlled Substances Act (Nov. 14, 1983, p. ——), and the committee has exclusive jurisdiction over the Legal Services Corporation (Nov. 19, 1975, p. 37288) and over the extension of workmen's benefits to non-Federal policemen and firemen (Dec. 12, 1975, p. 40204). The Committee has joint jurisdiction with the Committee on Education and Labor over bills to amend the Walsh-Healey Act regarding hours of work under government contracts (May 15, 1985, p. 11946).

The committee has the general oversight responsibility as set forth in clause 2(b), Rule X.

(n) Committee on Merchant Marine and Fisheries.

(1) Merchant marine generally.

§ 683. Merchant Marine and Fisheries.

(2) Oceanography and Marine Affairs, including coastal zone management.

(3) Coast Guard, including lifesaving service, lighthouses, lightships, and ocean derelicts.

(4) Fisheries and wildlife, including research, restoration, refuges, and conservation.

(5) Measures relating to the regulation of common carriers by water (except matters subject to the jurisdiction of the Interstate Commerce Commission) and to the inspection of merchant marine vessels, lights and signals,

lifesaving equipment, and fire protection on such vessels.

(6) Merchant marine officers and seamen.

(7) Navigation and the laws relating thereto, including pilotage.

(8) Panama Canal and the maintenance and operation of the Panama Canal, including the administration, sanitation, and government of the Canal Zone; and interoceanic canals generally.

(9) Registering and licensing of vessels and small boats.

(10) Rules and international arrangements to prevent collisions at sea.

(11) United States Coast Guard and Merchant Marine Academies, and State Maritime Academies.

(12) International fishing agreements.

This committee was established in 1887 (IV, 4129; VII, 1847, 1848), and its jurisdiction enlarged and further defined by the Legislative Reorganization Act of 1946 (60 Stat. 812). Effective January 3, 1975 (H. Res. 988, 93d Congress, p. 34470), the committee's jurisdiction over coast and geodetic survey was changed and enlarged to Oceanography and Marine Affairs, including coastal zone management (par. 2), and the committee was given additional jurisdiction over State Maritime Academies (par. 11), and international fishing agreements (par. 12) (a matter formerly within the partial jurisdiction of the Committee on Foreign Affairs).

The jurisdiction of this committee includes the general subjects of shipbuilding, admission of foreign-built ships, registering and licensing of vessels (IV, 4143), including pleasure yachts (IV, 4143), tonnage taxes and fines and penalties on vessels (IV, 4131; VII, 1856), the extension and increase of the merchant marine (IV, 4138), navigation and the laws relating thereto (IV, 4130), pilotage (IV, 4136), the naming and measuring of vessels (IV, 4132), rules and international arrangements to prevent collisions at sea (IV, 4135), and the shipping, wages, treatment (IV, 4140), and health of sailors (IV, 4141). The committee has also exercised a general jurisdiction over subjects relating to inspection of steam vessels as to hulls and boilers (IV, 4133; VII, 1854), lights and signals (IV, 4135), and protection from fire on vessels (IV, 4141), collisions, coasting districts, marine schools, etc. (IV, 4146; VII, 1857), transportation of inflammable substances on passenger vessels (IV, 4142), the titles, conduct, and licensing of officers of vessels (IV, 4139), and regulation of shipping in Hawaii (IV, 4130). The committee exercises jurisdiction as to the seal herds and other revenue producing animals of Alaska (VII, 1725, 1851).

The committee has jurisdiction over bills amending the Merchant Marine Act of 1936 to promote the American fishing fleet under competitive conditions (Feb. 2, 1959, p. 1606), bills regulating the importation and interstate shipment of wildlife species threatened with extinction, including criminal penalties (Apr. 27, 1967, p. 11060), bills relating to the licensing of personnel on towing and freight boats (Oct. 7, 1969, p. 28798), and bills amending the Canal Zone Code to prescribe the design of postage stamps (July 2, 1963, p. 12120), and had joint jurisdiction, with the Committee on Interior and Insular Affairs, over an executive communication transmitting a five-year Outer Continental Shelf oil and gas leasing program (June 9, 1982, p. 13019).

The committee has the general oversight responsibility as set forth in clause 2(b), Rule X.

(o) Committee on Post Office and Civil Service.

§ 684. Post Office and Civil Service.

(1) Census and the collection of statistics generally.

(2) All Federal Civil Service, including intergovernmental personnel.

(3) Postal-savings banks.

(4) Postal service generally, including the railway mail service, and measures relating to ocean mail and pneumatic-tube service; but excluding post roads.

(5) Status of officers and employees of the United States, including their compensation, classification, and retirement.

(6) Hatch Act.

(7) Holidays and celebrations.

(8) Population and demography.

This committee was created January 2, 1947, as a part of the Legislative Reorganization Act of 1946 (60 Stat. 812) and combined the former committees on "Post-Office and Post-Roads" (created in 1808, IV, 4190), "Civil Service" (created in 1893, IV, 4296), and "Census" (created in 1901, IV, 4351). Matters relating to post-roads were transferred to the Committee on Public Works.

Effective January 3, 1975 (H. Res. 988, 93d Congress, p. 34470), the committee's jurisdiction over Federal Civil Service generally was expanded to include all Federal Civil Service, including intergovernmental personnel (par. 2), and the committee was given jurisdiction over the Hatch Act (par. 6) (political activity prohibitions on Federal employees having been within the jurisdiction of the Committee on House Administration), over holidays and celebrations (par. 7) (a matter formerly within the jurisdiction of the Committee on the Judiciary), and over population and demography (par. 8).

The committee has jurisdiction over bills authorizing the Secretary of Defense to grant return rights to career employees (Feb. 26, 1959, p. 3042), over bills increasing salaries of District of Columbia judges omitted from the Federal Salary Act of 1968 (Dec. 11, 1969, p. 38543), over measures designating the national march and dance of the U.S. and expressing appreciation to named individuals for particular achievements (Apr. 16, 1975, p. 10345), and over legislation relating to the American Revolution Bicentennial Administration (July 25, 1975, p. 24811). The committee has concurrent jurisdiction (with the Committee on Foreign Affairs) over a resolution expressing the sense of Congress that the President communicate disapproval to the Soviet Union over nondelivery of international mail, and that the U.S. delegation to the Universal Postal Union Congress seek compliance by that country with the acts of the Union (Aug. 2, 1979, p. 22101).

The general oversight responsibility of the committee is set forth in clause 2(b), Rule X.

(p) Committee on Public Works and Transportation.

§ 685. Public Works and Transportation

(1) Flood control and improvement of rivers and harbors.

(2) Measures relating to the Capitol Building and the Senate and House Office Buildings.

(3) Measures relating to the construction or maintenance of roads and post roads, other than appropriations therefor; but it shall not be in order for any bill providing general legis-

lation in relation to roads to contain any provision for any specific road, nor for any bill in relation to a specific road to embrace a provision in relation to any other specific road.

(4) Measures relating to the construction or reconstruction, maintenance, and care of the buildings and grounds of the Botanic Gardens, the Library of Congress, and the Smithsonian Institution.

(5) Measures relating to the purchase of sites and construction of post offices, customhouses, Federal courthouses, and Government buildings within the District of Columbia.

(6) Oil and other pollution of navigable waters.

(7) Public buildings and occupied or improved grounds of the United States generally.

(8) Public works for the benefit of navigation, including bridges and dams (other than international bridges and dams).

(9) Water power.

(10) Transportation, including civil aviation except railroads, railroad labor and pensions.

(11) Roads and the safety thereof.

(12) Water transportation subject to the jurisdiction of the Interstate Commerce Commission.

(13) Related transportation regulatory agencies, except (A) the Interstate Commerce Commission as it relates to railroads; (B) Federal Railroad Administration; and (C) Amtrak.

The committee was created effective January 2, 1947, as a part of the Legislative Reorganization Act of 1946 (60 Stat. 812), and combined the

Committees on Flood Control (created in 1916 (VII, 2069)), Public Buildings and Grounds (created in 1837 (IV, 4231)), Rivers and Harbors (created in 1883 (IV, 4118)), and Roads (created in 1913 (VII, 2065)). The authority of the committee to report as privileged bills authorizing the improvement of rivers and harbors was eliminated effective January 3, 1975 (H. Res. 988, 93d Congress, p. 34470 (see clause 4(a), Rule XI)). Also effective on that date, the committee lost jurisdiction over parks in the District of Columbia to the Committee on Interior and Insular Affairs (clause 1(k)(8), Rule X), but gained jurisdiction over transportation, including civil aviation (except railroads, railroad labor and pensions which remains within the jurisdiction of the Committee on Energy and Commerce) (par. 10), over roads and the safety thereof (par. 11), over water transportation subject to the jurisdiction of the Interstate Commerce Commission (par. 12), and over related transportation regulatory agencies with the exceptions as stated in par. 13 which remain within the jurisdiction of the Committee on Energy and Commerce.

The committee has jurisdiction over proposals establishing Treasury revolving funds for the Southeastern and Southwestern Power Administrations (July 2, 1959, p. 12629), over bills directing the Secretary of the Army to provide school facilities for dependents of Corps of Engineers construction workers (June 17, 1968, p. 17429), over bills conveying Corps of Engineers flood-control project lands (July 15, 1965, p. 17002), over a bill directing the Secretary of the Army to renew the license of an American Legion Post to use a parcel of land on a Corps of Engineer project (May 10, 1988, p. ——), over bills authorizing construction of an annex to the National Gallery of Art by the Smithsonian Institution (Apr. 10, 1968, p. 9553), over bills authorizing the Smithsonian Institution to construct, expand, and renovate facilities at the Cooper-Hewitt Museum in New York (jointly with the Committee on House Administration) (July 21, 1987, p. ——), over bills on the location and development of the J. F. Kennedy Center for the Performing Arts (Sept. 15, 1965, p. 23927; Oct. 21, 1965, p. 27803), bills transferring land under the control of the Corps of Engineers to Indian tribes (Jan. 29, 1976, p. 1577), over bills amending the Interstate Commerce Act to regulate truck transportation (Feb. 24, 1976, p. 4109; Mar. 1, 1979, p. 3754), over a resolution concerning the treatment of a U.S. air freight carrier by the Japanese Ministry of Transport pursuant to an understanding negotiated under the International Air Transportation Competition Act of 1979 (not a Trade Act matter) (July 28, 1988, p. ——), and over an executive communication amending Public Law 90-553, reported by the committee, to authorize the transfer, conveyance, lease and improvement of, and construction on, certain property in the District of Columbia, for use as a headquarters site for an international organization, as sites for governments of foreign countries (Sept. 10, 1981, p. 20598), and has joint jurisdiction, with the Committee on Energy and Commerce, over a bill amending the Solid Waste Disposal Act to provide for the cleanup of hazardous waste sites or discharges presenting a threat to human health and the environment, including navigable waters (Mar. 21, 1984, p. ——), and joint jurisdiction, with the Committee on Government Operations, over a bill to require the Administrator of General Services to convey certain real property (a federal building) to the Museum for the American Indian and providing for renovation and alteration of the property (Oct. 28, 1987, p. ——). In the 101st Congress, the Committee reported a bill requiring a cooling-off period in a labor-management dispute between an airline and its unions under the Railway Labor Act (H.R. 1231, Mar. 13, 1989, p. ——).

The general oversight responsibility of the committee is set forth in clause 2(b), Rule X.

(q) Committee on Rules.

§ 686a. Rules. (1) The rules and joint rules (other than rules or joint rules relating to the Code of Official Conduct), and order of business of the House.

(2) Emergency waivers (under the Congressional Budget Act of 1974) of the required reporting date for bills and resolutions authorizing new budget authority.

(3) Recesses and final adjournments of Congress.

(4) The Committee on Rules is authorized to sit and act whether or not the House is in session.

With the exception of paragraph 2, the jurisdiction defined in the rule was made effective January 2, 1947, as a part of the Legislative Reorganization Act of 1946 (60 Stat. 812). Paragraph 4 is from sec. 134(c) of that Act, but the committee has had authority to sit during sessions of the House since 1893 (IV, 4546), and under clause 2(i), Rule XI, the committee may sit during the five-minute rule. The subject of recesses and adjournments was formerly under the jurisdiction of the Committee on Ways and Means. Effective July 12, 1974, the committee was given specific authority in sec. 402(b) of the Congressional Budget Act of 1974 (88 Stat. 318) to report emergency waivers of the required reporting date for bills and resolutions authorizing new budget authority. That authority was incorporated into this rule effective January 3, 1975 (H. Res. 988, 93d Congress, p. 34470) as paragraph 2.

This committee, which had existed as a select committee from 1789, became a standing committee in 1880 (IV, 4321; VII, 2047). The Speaker was first made a member of the committee in 1858 (IV, 4321), and ceased to be a member on March 19, 1910 (VII, 2047). However, the Legislative Reorganization Act of 1946 deleted from the former rule the prohibition against the Speaker serving on the committee. The size of the committee was increased from 12 to 15 members for the 87th Cong. (Jan. 31, 1961; Rec. p. 1589) and the increase in the committee's size was incorporated as a part of the rules in the 88th Congress on January 9, 1963. Effective January 3, 1975, however, the rules were amended to eliminate all reference to committee size (H. Res. 988, 93d Congress, p. 34470), and in the 94th through the 98th Congresses 16 members were named to the committee on nominations from the respective party caucuses (see e.g., H. Res. 76, Jan. 20, 1975, p. 803; H. Res. 101, Jan. 28, 1975, p. 1611), and in the 99th through 101st Congresses, 13 members were named to the committee on nominations from the respective party caucuses (see, e.g., H. Res. 34, 35, Jan. 30, 1985, p. 1271, 1273). Jurisdiction over rules relating to official conduct and financial disclosure was transferred to the Committee on Standards of Official Conduct on April 3, 1968 (H. Res. 1099, 90th Cong.), but in the 95th Congress, jurisdiction over rules relating to financial disclosure by members, officers and employees of the House was returned to this committee (H. Res. 5, Jan. 4, 1977, pp. 53–70).

Primarily the jurisdiction of this committee is over propositions to make or change the rules (V, 6770, 6776; VII, 2047), for the creation of committees (IV, 4322; VII, 2048), and directing them to make investigations (IV, 4322–4324; VII, 2048). Effective January 3, 1975 (H. Res. 988, 93d Congress, p. 34470), however, the authority for all committees to conduct investigations and studies was made a part of the standing rules (clause 1(b), Rule XI), as was the authority for all committees to sit and act whether the House is in session or has adjourned, and authority to issue subpoenas (clause 2(m), Rule XI). It also reports resolutions relating to the hour of daily meeting and the days on which the House shall sit (IV, 4325), and orders relating to the use of the galleries during the electoral count (IV, 4327).

§ 686b. Special orders.

Since 1883 the Committee on Rules has reported special orders providing times and methods for consideration of special bills or classes of bills, thereby enabling the House by majority vote to forward particular legislation, instead of being forced to use for the purpose the motion to suspend the rules, which requires a two-thirds vote (IV, 3152; V, 6870; for forms of, IV, 3238–3263).

Special orders may still be made by suspension of the rules (IV, 3154) or by unanimous consent (IV, 3165, 3166; VII, 758); but it is not in order, by motion in the House, to provide that a subject be made a special order by a motion to postpone to a day certain (IV, 3164). But before the adoption of rules, and consequently before there is a rule as to the order of business, a Member may offer a special order for immediate consideration (V, 4971, 5450). A special order reported by the Committee on Rules must be agreed to by a majority vote of the House (IV, 3169).

It is not in order to move to postpone a special order providing for the consideration of a class of bills (V, 4958), but a bill which comes before the House by the terms of a special order merely assigning the day for its consideration may be postponed by a majority vote (IV, 3177–3182). A motion to rescind a special order is not privileged under the rules regulating the order of business (IV, 3173, 3174; V, 5323).

A motion to amend the Rules of House does not present a question of privilege (VIII, 3377, overruling VIII, 3376; see also Rule IX and § 664, supra), and it is not in order by raising a question of the privileges of the House under Rule IX to move to direct the Committee on Rules to consider a request to report a special order of business (Speaker Albert, June 27, 1974, p. 21599), or to direct the Committee on Rules to meet, to elect a temporary chairman (in the temporary absence of the chairman) and consider special orders of business (Speaker Albert, July 31, 1975, p. 26250).

For further discussion of the Committee on Rules see § 729a.

(r) Committee on Science, Space, and Technology.

§ 687. Science, Space, and Technology.

(1) Astronautical research and development, including resources, personnel, equipment, and facilities.

(2) Bureau of Standards, standardization of weights and measures and the metric system.

(3) National Aeronautics and Space Administration.

(4) National Aeronautics and Space Council.

(5) National Science Foundation.

(6) Outer space, including exploration and control thereof.

(7) Science Scholarships.

(8) Scientific research, development, and demonstration, and projects therefor.

(9) Civil aviation research and development.

(10) Environmental research and development.

(11) All energy research, development, and demonstration, and projects therefor, and all federally owned or operated nonmilitary energy laboratories.

(12) National Weather Service.

In addition to its legislative jurisdiction under the preceding provisions of this paragraph (and its general oversight function under clause 2(b)(1)), the committee shall have the special oversight function provided for in clause 3(f) with respect to all nonmilitary research and development.

The Standing Committee on Science and Astronautics was established July 21, 1958, p. 14513. It was given jurisdiction formerly vested in a Select Committee on Astronautics and Space Exploration, established March 5, 1958, p. 3443, and additional jurisdiction (transferred from the Committee on Interstate and Foreign Commerce) over matters relating to the Bureau of Standards (now the National Institute of Standards and Technology) and science scholarships. Effective January 3, 1975 (H. Res. 988, 93d Congress, p. 34470), the committee was redesignated as the Committee on Science and Technology and was given additional jurisdiction over civil aviation research and development (par. 9) (a matter formerly within the jurisdiction of the Committee on Energy and Commerce), environmental research and development (par. 10), all energy research and development except nuclear research and development (par. 11), and the National Weather Service (now part of the National Oceanic and Atmospheric Administration) (par. 12) (a matter formerly within the jurisdiction of the Committee on Energy and Commerce). Also effective on that date the committee was given the general and special oversight functions as set forth in clause 2(b) and clause 3(f), Rule X. On January 4, 1977, the committee was also given jurisdiction over nuclear research and development, upon the abolition of the legislative jurisdiction in the House of the Joint Committee on Atomic Energy (H. Res. 5, pp. 53–70). The committee's jurisdiction over energy research and development (par. 11) was amended in the 96th Congress to specifically include energy demonstration projects and federally owned nonmilitary energy laboratories (H. Res. 549, Mar. 25, 1980, pp. 6405–10) effective January 3, 1981. In the 100th Congress, the Committee was redesignated as the Committee on Science, Space, and Technology (H. Res. 5, Jan. 6, 1987, p. ——).

The committee has jurisdiction over proposals dealing with U.S. participation in the World Science Pan-Pacific Exposition (June 24, 1959, p.

11810); has concurrent jurisdiction (with the Committee on Foreign Affairs) over a resolution condemning Soviet Union internal exile of an individual, and recommending that government agencies including NASA, the National Bureau of Standards and the National Science Foundation defer official travel to that country (Jan. 30, 1980, p. 1320); has concurrent jurisdiction (with the Committees on Armed Services and Interior and Insular Affairs) over bills to test the commercial viability of oil shale technologies within the naval oil shale reserves or on other public lands (Sept. 26, 1978, p. 31623); and has concurrent jurisdiction (with four other committees) over a bill coordinating federal agencies' research into ground water contamination, including that done by the Environmental Protection Agency (Mar. 15, 1989, p. ——).

(s) Committee on Small Business.

§ 688. Small Business.

(1) Assistance to and protection of small business, including financial aid.

(2) Participation of small-business enterprises in Federal procurement and Government contracts.

In addition to its legislative jurisdiction under the preceding provisions of this paragraph (and its general oversight function under clause 2(b)(1)), the committee shall have the special oversight function provided for in clause 3(g) with respect to the problems of small business.

The committee became a standing committee effective January 3, 1975 (H. Res. 988, 93d Congress, p. 34470), and the legislative jurisdiction as set forth in the rule was bestowed upon the committee on that date, at which time the jurisdiction under paragraph 1 was transferred from the Committee on Banking and Currency, and the jurisdiction under paragraph 2 was transferred for the most part from the Committee on the Judiciary. The Select Committee on Small Business had been made a permanent select committee of the House by the adoption of the rules in the 92d Congress (H. Res. 5, Jan. 22, 1971, p. 144). The select committee was first established in 1941 (H. Res. 294, 77th Congress, pp. 9418–28), and it was reconstituted each Congress thereafter by resolution reported from the Committee on Rules until its status was made permanent.

The general and special oversight functions as set forth in clause 2(b) and in clause 3(g), Rule X, were effective January 3, 1975 (H. Res. 988, 93d Congress, p. 34470).

(t) Committee on Standards of Official Conduct.

§ 689. Standards of Official Conduct.

(1) Measures relating to the Code of Official Conduct.

In addition to its legislative jurisdiction under the preceding provision of this paragraph (and its general oversight function under clause 2(b)(1)), the committee shall have the functions with respect to recommendations, studies, investigations, and reports which are provided for in clause 4(e), and the functions designated in title I of the Ethics in Government Act of 1978.

The committee was established April 13, 1967 (H. Res. 418, 90th Congress) and its jurisdiction re-defined on April 3, 1968 (H. Res. 1099, 90th Congress). On January 14, 1975 (H. Res. 5, 94th Congress), legislative jurisdiction over measures relating to the raising, reporting and use of campaign contributions for candidates for the House was transferred from the committee to the Committee on House Administration (clause 1(k)(14), Rule X). On July 8, 1970 (H. Res. 1031, p. 23141) the committee was given jurisdiction over measures relating to lobbying activities but effective January 4, 1977 (H. Res. 5, 95th Cong., pp. 53–70) jurisdiction over that subject and jurisdiction over measures relating to financial disclosure by Members, officers and employees of the House were removed from the committee. In the 95th Congress, several Rules which related to the official conduct of Members were adopted but not incorporated into Rule XLIII, the "Code of Official Conduct": Rule XLV, prohibiting unofficial office accounts, Rule XLVI, limiting the use of the frank, and Rule XLVII, limiting outside earned income (H. Res. 287, Mar. 2, 1977, pp. 5933–53).

The committee is given the right to report as privileged resolutions recommending action by the House of Representatives with respect to the official conduct of an individual Member, officer or employee of the House (clause 4(a), Rule XI). In addition to its legislative jurisdiction, the committee has the general oversight responsibility set forth in clause 2(b), Rule X and the additional functions of conducting the investigations and making the reports and recommendations as required by clause 4(e), Rule X, and by other House resolutions authorizing specific investigations (see e.g., H. Res. 252, 95th Cong., Feb. 9, 1977, pp. 3966–75, directing investigation of gifts from Korean government; H. Res. 1042, 94th Cong., Feb. 16, 1976, pp. 3158–3161, directing investigation of unauthorized publication of report of Select Committee on Intelligence; H. Res. 608, 96th

Cong., Mar. 27, 1980, pp. 6995-8 (Abscam). Effective Jan. 15, 1979, the committee was designated as the committee required to perform the functions designated in Title I of the Ethics in Government Act of 1978 (Public Law 95-521) (H. Res. 5, 96th Cong., p. 8).

The committee has issued advisory opinions under the authority granted by clause 4(e)(1)(D), Rule X, and these opinions, together with advisory opinions of the former Select Committee on Ethics (see § 943b, infra) have been published in the Ethics Manual prepared by the committee and in the Record for the benefit of all Members, officers, and employees. (See: (1) Jan. 26, 1970, pp. 1077-78, on financial disclosure; (2) July 12, 1973, pp. 23691-2, on Members' clerk hire; (3) June 28, 1974, pp. 21765-6, on foreign travel at expense of foreign governments; (4) May 15, 1975, p. 14503, on acceptance of nonpaid transportation); (5) Apr. 4, 1979, p. ——, on use of Member's letterhead; and (6) Sept. 21, 1982, p. ——, on use of campaign funds to promote town meetings. The Committee revoked opinions (3) and (4) as superseded in 1981.) The committee has investigated rollcall procedures in the House and recommended installation of a modernized voting system (June 19, 1969, p. 16629). (See also § 943a, *infra,* for citation to advisory opinions issued by the Select Committee on Ethics in the 95th Congress).

The committee was also authorized by law in the 95th Congress (Public Law 95-105, § 515) to act as the "employing agency" for the House of Representatives under the Foreign Gifts and Decorations Act, and the committee promulgated regulations under that statute concerning acceptance of foreign gifts and decorations by Members and employees (Jan. 23, 1978, p. 452).

(u) **Committee on Veterans' Affairs.**

(1) Veterans' measures generally.

§ 690. Veterans' Affairs.

(2) Cemeteries of the United States in which veterans of any war or conflict are or may be buried, whether in the United States or abroad, except cemeteries administered by the Secretary of the Interior.

(3) Compensation, vocational rehabilitation, and education of veterans.

(4) Life insurance issued by the Government on account of service in the Armed Forces.

(5) Pensions of all the wars of the United States, general and special.

(6) Readjustment of servicemen to civil life.

(7) Soldiers' and sailors' civil relief.

(8) Veterans' hospitals, medical care, and treatment of veterans.

This committee was established January 2, 1947, as a part of the Legislative Reorganization Act of 1946 (60 Stat. 812), and was vested with jurisdiction formerly exercised by the Committee on World War Veterans' Legislation (VII, 2077); Invalid Pensions (IV, 4258); and Pensions (IV, 4260). Jurisdiction over veterans' cemeteries administered by the Department of Defense was transferred from the committee on Interior and Insular Affairs on October 20, 1967, by H. Res. 241, 90th Cong. Vocational rehabilitation except that pertaining to veterans is under the jurisdiction of the Committee on Education and Labor. The committee has jurisdiction over bills to amend the Soldiers and Sailors Civil Relief Act of 1940 to permit certain declarations of fact in lieu of affidavits (Feb. 4, 1959, p. 1812), and over bills to amend the Servicemen's and Veterans' Survivor Benefits Act re service-connected deaths of retired members of the uniformed services (May 18, 1959, p. 8273).

(v) **Committee on Ways and Means.**

(1) Customs, collection districts, and ports of entry and delivery.

§ 691. Ways and Means.

(2) Reciprocal trade agreements.

(3) Revenue measures generally.

(4) Revenue measures relating to the insular possessions.

(5) The bonded debt of the United States (subject to the last sentence of clause 4(g) of this rule).

(6) The deposit of public moneys.

(7) Transportation of dutiable goods.

(8) Tax exempt foundations and charitable trusts.

(9) National social security, except (A) health care and facilities programs that are supported from general revenues as opposed to payroll deductions and (B) work incentive programs.

As a select committee Ways and Means dates from 1789. It was made a standing committee in 1802. Originally it considered both revenue and appropriations; but in 1865 the appropriation bills were given to the Committee on Appropriations and certain other bills to the Committee on Banking and Currency (IV, 4020). The rule was also amended April 5, 1911, p. 58. The jurisdiction of the Committee on Ways and Means was further defined in the Legislative Reorganization Act of 1946 (60 Stat. 812). The subject of recesses and final adjournments formerly within the jurisdiction of this committee was, under the Reorganization Act, transferred to the Committee on Rules.

Effective January 3, 1975 (H. Res. 988, 93d Congress, p. 34470), the committee gained legislative jurisdiction over tax exempt foundations and charitable trusts (par. 8) (a matter formerly within the jurisdiction of the Committee on Banking and Currency because of their impact on the economy). Jurisdiction over health care and facilities programs supported from general revenues, formerly belonging to the committee, was on that date transferred to the Committee on Energy and Commerce (clause 1(h)(17), Rule X), jurisdiction over work incentive programs was transferred to the Committee on Education and Labor (clause 1(g)(14), Rule X), jurisdiction over general revenue sharing was transferred to the Committee on Government Operations (clause 1(j)(4), Rule X), and jurisdiction over renegotiation was transferred to the Committee on Banking, Finance and Urban Affairs (clause 1(d)(5), Rule X).

The committee's jurisdiction over the bonded debt of the United States (par. 5) was made subject to the last sentence of clause 4(g) of Rule X in the 96th Congress by Public Law 96-78 (approved September 29, 1979, 93 Stat. 589) and was originally intended to apply to concurrent resolutions on the budget for fiscal years beginning on or after October 1, 1980 (fiscal 1981). However, upon the adoption of H. Res. 642 (96th Congress, April 23, 1980, pp. 8789-90), this and other provisions of that public law amending the Rules of the House were made applicable to the third concurrent resolution on the budget for fiscal year 1980 as well as to the first concurrent resolution on the budget for fiscal 1981.

The revenue jurisdiction extends to such subjects as transportation of dutiable goods, collection districts, ports of entry and delivery (IV, 4026), customs unions, reciprocity treaties (IV, 4021), revenue relations of the United States with Puerto Rico (IV, 4025), the revenue bills relating to agricultural products generally, excepting oleomargarine (IV, 4022), and tax on cotton and grain futures. The committee formerly had jurisdiction as to seal herds and other revenue producing animals in Alaska but this jurisdiction was changed in the 68th Congress (VII, 1725, 1851) to Merchant Marine and Fisheries. The committee has jurisdiction (in the 96th Congress on the basis of sequential referrals) of bills reported from the Interstate and Foreign Commerce Committee and the Public Works and Transportation Committee, creating major oilspill and hazardous waste trust funds in the Treasury funded by assessments on all quantities of oil, petrochemical feedstocks, and other hazardous substances sold for sale, where the scope and size of the funds and the method of fee assessment (similar to an excise tax) represented the collection of general revenue to fund particular Federal activities, a type of financing mechanism over which the Ways and Means Committee has traditionally exercised jurisdiction (May 20, 1980, p. 11862).

The committee has jurisdiction of subjects relating to the Treasury of the United States and the deposit of the public moneys (IV, 4028), but it failed to make good a claim to the subjects of "national finances" and "preservation of the Government credit" (IV, 4023). The committee has jurisdiction over bills providing tax incentives for persons investing in Indian property (Feb. 1, 1964, p. 1582), over bills providing unemployment compensation to individuals with military or Federal service (Apr. 28, 1976, p. 11590), bills providing extended and increased unemployment compensation (Apr. 16, 1975, p. 10346), and over private bills waiving provisions of the Tariff Act to require reliquidation of certain imported materials as duty-free (July 13, 1982, p. 16014). The committee has joint jurisdiction with the Committee on Energy and Commerce over executive communications reporting on inpatient hospital services under title XXVIII (medicare) and under title XIX (medicaid) of the Social Security Act (Dec. 21, 1982, p. 33261), joint jurisdistion with the Committee on Public Works and Transportation over executive communications proposing draft legislation, and a corresponding bill, reauthorizing the Surface Transportation Act but also containing a revenue title raising taxes to fund surface transportation programs (Mar. 20, 1986, p. ——), and joint jurisdiction with the Committee on Merchant Marine and Fisheries over a bill amending the Fishermen's Protective Act to authorize the President to prohibit the importation of any product from a country violating an international fishery conservation program (Mar. 21, 1989, p. ——).

The committee in the earlier practice reported resolutions distributing the President's annual message (IV, 4030), but since the first session of the Sixty-fourth Congress this practice has been discontinued (VIII, 3350).

The committee has the general oversight responsibility as set forth in clause 2(b), Rule X, effective January 3, 1975 (H. Res. 988, 93d Congress, p. 34470).

General Oversight Responsibilities

2. (a) In order to assist the House in—

(1) its analysis, appraisal, and evaluation of

§ 692a. General oversight.

(A) the application, administration, execution, and effectiveness of the laws enacted by the Congress, or (B) conditions and circumstances which may indicate the necessity or desirability of enacting new or additional legislation, and

(2) its formulation, consideration, and enactment of such modifications of or changes in those laws, and of such additional legislation, as may be necessary or appropriate, the various standing committees shall have oversight responsibilities as provided in paragraph (b).

(b)(1) Each standing committee (other than the Committee on Appropriations and the Committee on the Budget) shall review and study, on a continuing basis, the application, administration, execution, and effectiveness of those laws or parts of laws, the subject matter of which is within the jurisdiction of that committee and the organization and operation of the Federal agencies and entities having responsibilities in or for the administration and execution thereof, in order to determine whether such laws and the programs thereunder are being implemented and carried out in accordance with the intent of the Congress and whether such programs should be continued, curtailed, or eliminated. In addition, each such committee shall review and study any conditions or circumstances which may indicate the necessity or desirability of enacting new or additional legislation within the jurisdiction of that committee (whether or not any bill or resolution has been introduced with respect thereto), and shall on a continuing basis undertake futures research and forecasting on matters within the jurisdiction of that committee. Each such committee having more than twenty members shall establish an oversight subcommittee, or require its subcommittees, if any, to conduct oversight in the area of their respective jurisdiction, to assist in carrying out its responsibilities under this subparagraph. The establishment of oversight subcommittees shall in no way limit the responsibility of the subcommittees with legislative jurisdiction from carrying out their oversight responsibilities.

§ 692b. Oversight subcommittees.

(2) The Committee on Government Operations shall review and study, on a continuing basis, the operation of Government activities at all levels with a view to determining their economy and efficiency.

(3) The Committee on Appropriations shall conduct such studies and examinations of the organization and operation of executive departments and other executive agencies (including any agency the majority of the stock of which is owned by the Government of the United States) as it may deem necessary to assist it in the determination of matters within its jurisdiction.

(c) Each standing committee of the House shall have the function of reviewing and studying on a continuing basis the impact or probable impact of tax policies affecting subjects within its jurisdiction as described in clauses 1 and 3.

Clause 2(a), and the first requirement of clause 2(b)(1) that each standing committee shall review the application, etc. of all laws within its jurisdiction, was originally contained in section 118(b) of the Legislative Reorganization Act of 1970 (84 Stat. 1140) and was made part of the standing rules on January 22, 1971 (H. Res. 5, p. 144). The oversight authority conferred by clause 2(b)(2) on the Committee on Government Operations was first made effective as part of the Legislative Reorganization Act of 1946 (60 Stat. 812), and the responsibility of the Committee on Appropriations as set forth in clause 2(b)(3) was first given that committee on February 11, 1943, p. 884, continued by resolution of January 9, 1945, p. 135, and incorporated into permanent law in sec. 202(b) of the Legislative Reorganization Act of 1946, and made a part of the standing rules on Jan. 3, 1953, pp. 17, 24. Effective January 3, 1975 (H. Res. 988, 93d Congress, p. 34470), the general oversight responsibilities set forth in the remainder of the clause were incorporated into the rule, and on January 14, 1975 (H. Res. 5, 94th Congress, p. 20), the size of those standing committees required by clause 2(b)(1) to establish an oversight subcommittee or to require its subcommittees to conduct oversight was increased from 15 to more than 20. In the 100th Congress, the requirement that representatives from the Committee on Government Operations meet with other committees at the beginning of each Congress to discuss oversight plans and that the Government Operations Committee report to the House its oversight coordination recommendations within sixty days after convening of the first session was deleted (H. Res. 5, Jan. 6, 1987, p. ——).

Special Oversight Functions

§693. Special oversight.

3. (a) The Committee on Armed Services shall have the function of reviewing and studying, on a continuing basis, all laws, programs, and Government activities dealing with or involving international arms control and disarmament and the education of military dependents in schools.

(b) The Committee on the Budget shall have the function of—

(1) making continuing studies of the effect on budget outlays of relevant existing and proposed legislation, and reporting the results of such studies to the House on a recurring basis; and

(2) requesting and evaluating continuing studies of tax expenditures, devising methods of coordinating tax expenditures, policies, and programs with direct budget outlays, and reporting the results of such studies to the House on a recurring basis.

(c) The Committee on Education and Labor shall have the function of reviewing, studying, and coordinating, on a continuing basis, all laws, programs, and Government activities dealing with or involving domestic educational programs and institutions, and programs of student assistance, which are within the jurisdiction of other committees.

(d) The Committee on Foreign Affairs shall have the function of reviewing and studying, on a continuing basis, all laws, programs, and Government activities dealing with or involving customs administration, intelligence activities relating to foreign policy, international financial and monetary organizations, and international fishing agreements.

(e) The Committee on Interior and Insular Affairs shall have the function of reviewing and studying, on a continuing basis, all laws, programs, and Government activities dealing with Indians and nonmilitary nuclear energy and research and development including the disposal of nuclear waste.

(f) The Committee on Science, Space, and Technology shall have the function of reviewing and studying, on a continuing basis, all laws, programs, and Government activities dealing with or involving nonmilitary research and development.

(g) The Committee on Small Business shall have the function of studying and investigating, on a continuing basis, the problems of all types of small business.

(h) The Committee on Energy and Commerce shall have the function of reviewing and studying, on a continuing basis, all laws, programs and government activities relating to nuclear and other energy.

(i) The Committee on Rules shall have the function of reviewing and studying, on a continuing basis, the congressional budget process, and the committee shall, from time to time, report its findings and recommendations to the House.

The special oversight responsibilities of the Committee on the Budget as set forth in clause 3(b) were made part of the rules effective July 12, 1974 by section 101(c) of the Congressional Budget Act of 1974 (88 Stat. 300). The remainder of the clause became effective January 3, 1975 (H. Res. 988, 93d Congress, p. 34470) except that paragraph (h) was added on January 4, 1977, upon the abolition of the legislative jurisdiction in the House of the Joint Committee on Atomic Energy (H. Res. 5, 95th Cong., pp. 53-70) and the name of the Committee on International Relations was changed back to Foreign Affairs (H. Res. 89, Feb. 5, 1979, pp. 1848-9). Paragraph (h) was amended in the 96th Congress to change the name of the Committee on Interstate and Foreign Commerce to the Committee on Energy and Commerce and to expand that committee's special oversight responsibilities over nuclear energy to all energy programs (H. Res. 549, March 25, 1980, pp. 6405-10) effective January 3, 1981. Paragraph (i) was added by section 226 of P.L. 99-177, the Balanced Budget and Emergency Deficit Control Act of 1985 (Dec. 12, 1985).

Additional Functions of Committees

4. (a)(1)(A) The Committee on Appropriations § 694a. shall, within thirty days after the transmittal of the Budget to the Congress each year, hold hearings on the Budget as a whole with particular reference to—

(i) the basic recommendations and budgetary policies of the President in the presentation of the Budget; and

(ii) the fiscal, financial, and economic assumptions used as bases in arriving at total estimated expenditures and receipts.

(B) In holding hearings pursuant to subdivision (A), the committee shall receive testimony from the Secretary of the Treasury, the Director of the Office of Management and Budget, the Chairman of the Council of Economic Advisers, and such other persons as the committee may desire.

(C) Hearings pursuant to subdivision (A), § 694b. Budget hearings. or any part thereof, shall be held in open session, except when the committee, in open session and with a quorum present, determines by rollcall vote that the testimony to be taken at that hearing on that day may be related to a matter of national security: *Provided, however,* That the committee may by the same procedure close one subsequent day of hearing. A transcript of all such hearings shall be printed and a copy thereof furnished to each Member, Delegate, and the Resident Commissioner from Puerto Rico.

(D) Hearings pursuant to subdivision (A), or any part thereof, may be held before joint meetings of the committee and the Committee on Appropriations of the Senate in accordance with such procedures as the two committees jointly may determine.

This part of clause 4 was originally contained in section 242(c)(1) of the Legislative Reorganization Act of 1970 and was made part of the standing rules on January 22, 1971, p. 144 (H. Res. 5, 92d Congress). Paragraph (C) requiring open hearing was first adopted on March 7, 1973 (H. Res. 259, 93d Congress, pp. 6713-20), and was amended January 14, 1975 (H. Res. 5, 94th Congress, p. 20) to limit the effect of a vote to close a hearing to that day and one subsequent day.

§ 694c. Budget Act procedures.

(2) Whenever any bill or resolution which provides new spending authority described in section 401(c)(2)(C) of the Congressional Budget Act of 1974 is reported by a committee of the House and the amount of new budget authority which will be required for the fiscal year involved if such bill or resolution is enacted as so reported exceeds the appropriate allocation of new budget authority reported as described in clause 4(h) in connection with the most recently agreed to concurrent resolution on the budget for such fiscal year, such bill or resolution shall then be referred to the Committee on Appropriations with instructions to report it, with the committee's recommendations and (if the committee deems it desirable) with an amendment limiting the total amount of new spending authority provided in the bill or resolution,

within 15 calendar days (not counting any day on which the House is not in session) beginning with the day following the day on which it is so referred. If the Committee on Appropriations fails to report the bill or resolution within such 15-day period, the committee shall be automatically discharged from further consideration of the bill or resolution and the bill or resolution shall be placed on the appropriate calendar.

(3) In addition, the Committee on Appropriations shall study on a continuing basis those provisions of law which (on the first day of the first fiscal year for which the congressional budget process is effective) provide spending authority or permanent budget authority and shall report to the House from time to time its recommendations for terminating or modifying such provisions.

Paragraph (2) first became effective on July 12, 1974 by inclusion in section 401(b)(2) of the Congressional Budget Act of 1974 (88 Stat. 317), was incorporated into the rules effective January 3, 1975 (H. Res. 988, 93d Congress, p. 34470), and was amended on January 4, 1977 (H. Res. 5, 95th Cong., pp. 53–70) to correct an error in cross-reference. Paragraph (3) was also contained in the Congressional Budget Act of 1974 in section 402(f), and was likewise incorporated into the rules by H. Res. 988, 93d Congress.

(b) The Committee on the Budget shall have the duty—

§ 695. Budget.

(1) to review on a continuing basis the conduct by the Congressional Budget Office of its functions and duties;

(2) to hold hearings, and receive testimony from Members of Congress and such appropri-

ate representatives of Federal departments and agencies, the general public, and national organizations as it deems desirable, in developing the concurrent resolutions on the budget for each fiscal year;

(3) to make all reports required of it by the Congressional Budget Act of 1974, including the reporting of reconciliation bills and resolutions when so required;

(4) to study on a continuing basis those provisions of law which exempt Federal agencies or any of their activities or outlays from inclusion in the Budget of the United States Government, and to report to the House from time to time its recommendations for terminating or modifying such provisions; and

(5) to study on a continuing basis proposals designed to improve and facilitate methods of congressional budget-making, and to report to the House from time to time the results of such study together with its recommendations.

Paragraph (b)(1) became a part of the rules on July 12, 1974 by enactment of section 101(c) of the Congressional Budget Act of 1974 (88 Stat. 300). Paragraph (2), contained in section 301(d) of that Act, paragraph (3), paragraph (4), contained in section 606 of that Act, and paragraph (5), contained in section 703 of that Act, all were made part of the rules effective January 3, 1975 (H. Res. 988, 93d Congress, p. 34470). Paragraph (2) was amended in the 99th Congress by sec. 232 of P.L. 99-177, the Balanced Budget and Emergency Deficit Control Act of 1985 (Dec. 12, 1985) to remove reference to the first concurrent resolution on the budget.

§ 696. Government Operations.

(c)(1) The Committee on Government Operations shall have the general function of—

(A) receiving and examining reports of the Comptroller General of the United States and of submitting such recommendations to the House as it deems necessary or desirable in connection with the subject matter of such reports;

(B) evaluating the effects of laws enacted to reorganize the legislative and executive branches of the Government; and

(C) studying intergovernmental relationships between the United States and the States and municipalities, and between the United States and international organizations of which the United States is a member.

(2) In addition to its duties under subparagraph (1), the Committee on Government Operations may at any time conduct investigations of any matter without regard to the provisions of clause 1, 2, or 3 (or this clause) conferring jurisdiction over such matter upon another standing committee. The committee's findings and recommendations in any such investigation shall be made available to the other standing committee or committees having jurisdiction over the matter involved (and included in the report of any such other committee when required by clause 2(l)(3) of Rule XI).

Paragraph (c)(1) became effective January 2, 1947 as part of the Legislative Reorganization Act of 1946 (60 Stat. 812). Paragraph (c)(2) was made a function of the Committee on Government Operations effective January 3, 1975 (H. Res. 988, 93d Congress, p. 34470).

(d) The Committee on House Administration shall have the function of—

§ 697a. House Administration.

(1) examining all bills, amendments, and joint resolutions after passage by the House and, in cooperation with the Senate, examining all bills and joint resolutions which shall have passed both Houses to see that they are correctly enrolled, forthwith presenting those which originated in the House to the President of the United States in person after their signature by the Speaker of the House and the President of the Senate and reporting the fact and date of such presentation to the House;

§ 697b. Enrolled bills.

(2) reporting to the Sergeant-at-Arms of the House concerning the travel of Members of the House; and

§ 697c. Travel of Members.

(3) providing, through the House Information Systems a scheduling service which shall be used by all the committees and subcommittees of the House to eliminate, insofar as possible, any meeting and scheduling conflicts.

§ 697d. Scheduling service.

The requirements as set forth in paragraph (d)(1) were originally the responsibility of the Committee on Enrolled Bills created in 1789 (IV, 4350), and became the responsibility of the Committee on House Administration when that committee was created effective January 2, 1947 as part of the Legislative Reorganization Act of 1946 (60 Stat. 812). The committee's duty to arrange for memorial services of members was eliminated from the rules effective January 3, 1975 (H. Res. 988, 93d Congress, p. 34470), the date on which the requirements of paragraph (d)(3) were first imposed upon the committee. The previously optional use of the committee scheduling service of the House Information Systems (paragraph (d)(3)) was made mandatory on all committees and subcommittees in the 97th Congress (H. Res. 5, Jan. 5, 1981, pp. 98–113).

§ 698. Standards of Official Conduct: additional duties.

(e)(1) The Committee on Standards of Official Conduct is authorized: (A) to recommend to the House from time to time such administrative actions as it may deem appropriate to establish or enforce standards of official conduct for Members, officers, and employees of the House; (B) to investigate, subject to subparagraph (2) of this paragraph, any alleged violation, by a Member, officer, or employee of the House, of the Code of Official Conduct or of any law, rule, regulation, or other standard of conduct applicable to the conduct of such Member, officer, or employee in the performance of his duties or the discharge of his responsibilities, and after notice and hearing, to recommend to the House, by resolution or otherwise, such action as the committee may deem appropriate in the circumstances; (C) to report to the appropriate Federal or State authorities, with the approval of the House, any substantial evidence of a violation, by a Member, officer, or employee of the House, of any law applicable to the performance of his duties or the discharge of his responsibilities, which may have been disclosed in a committee investigation; and (D) to give consideration to the request of any Member, officer, or employee of the House for an advisory opinion with respect to the general propriety of any current or proposed conduct of such Member, officer, or employee and, with appropriate deletions to assure the privacy of the individual concerned, to publish such opinion for the guidance of other Members, officers, and employees of the House.

(2)(A) No resolution, report, recommendation, or advisory opinion relating to the official conduct of a Member, officer, or employee of the House shall be made by the Committee on Standards of Official Conduct, and no investigation of such conduct shall be undertaken by such committee, unless approved by the affirmative vote of a majority of the members of the committee.

(B) Except in the case of an investigation undertaken by the committee on its own initiative, the committee may undertake an investigation relating to the official conduct of an individual Member, officer, or employee of the House of Representatives only—

(i) upon receipt of a complaint, in writing and under oath, made by or submitted to a Member of the House and transmitted to the committee by such Member, or

(ii) upon receipt of a complaint, in writing and under oath, directly from an individual not a Member of the House if the committee finds that such complaint has been submitted by such individual to not less than three Members of the House who have refused, in writing, to transmit such complaint to the committee.

(C) No investigation shall be undertaken by the committee of any alleged violation of a law, rule, regulation, or standard of conduct not in effect at the time of the alleged violation.

(D) A member of the committee shall be ineligible to participate, as a member of the committee, in any committee proceeding relating to his or her official conduct. In any case in which a member of the committee is ineligible to act as a member of the committee under the preceding sentence, the Speaker of the House shall designate a Member of the House from the same political party as the ineligible member of the committee to act as a member of the committee in any committee proceeding relating to the official conduct of such ineligible member.

(E) A member of the committee may disqualify himself from participating in any investigation of the conduct of a Member, officer, or employee of the House upon the submission in writing and under oath of an affidavit of disqualification stating that he cannot render an impartial and unbiased decision in the case in which he seeks to disqualify himself. If the committee approves and accepts such affidavit of disqualification, the chairman shall so notify the Speaker and request the Speaker to designate a Member of the House from the same political party as the disqualifying member of the committee to act as a member of the committee in any committee proceeding relating to such investigation.

(F) No information or testimony received, or the contents of a complaint or the fact of its filing, shall be publicly disclosed by any Committee or staff member unless specifically authorized in each instance by a vote of the full Committee.

The investigative authority contained in paragraph (e) was first conferred upon the committee on April 3, 1968 (H. Res. 1099, 90th Congress), and effective January 3, 1975 (H. Res. 988, 93d Congress, p. 34470), the former requirement in paragraph (e)(2)(A) that seven committee members must authorize an investigation, was changed to permit a majority of the committee to provide that authorization. Subparagraph (E) was added on January 4, 1977 (H. Res. 5, 95th Cong., pp. 53-70), to provide a mechanism for a committee member to disqualify himself from participating in an investigation, and subparagraph (F) was added on January 15, 1979 (H. Res. 5, 96th Cong., p. 8). On occasions where the House has directed the committee to conduct specific investigations by separate resolution, it has authorized the committee to take depositions with one Member present, notwithstanding clause 2(h)(1), Rule XI, to serve subpoenas within or without the United States, and to participate by special counsel in relevant judicial proceedings (see H. Res. 252, 95th Cong., Feb. 9, 1977, pp. 3966-75; H. Res. 608, Mar. 27, 1980, pp. 6995-8; H. Res. 254, June 30, 1983, p. ——), and to investigate persons other than Members, officers and employees with expanded subpoena authority (see H. Res. 1054, 94th Cong., Mar. 3, 1976, pp. 5165-8). By unanimous consent the committee was authorized to receive evidence and take testimony before a quorum of one of its Members for the remainder of the second session of the 100th Congress (Oct. 13, 1988, p. ——).

§ 699a. Annual appropriations.

(f)(1) Each standing committee of the House shall, in its consideration of all bills and joint resolutions of a public character within its jurisdiction, insure that appropriations for continuing programs and activities of the Federal Government and the District of Columbia government will be made annually to the maximum extent feasible and consistent with the nature, requirements, and objectives of the programs and activities involved. For the purposes of this paragraph a Government agency includes the organizational units of government listed in clause 7(c) of Rule XIII.

(2) Each standing committee of the House shall review, from time to time, each continuing program within its jurisdiction for which appropriations are not made annually in order to ascertain whether such program could be modified so that appropriations therefor would be made annually.

The provisions of paragraph (f) derive from section 253(c) of the Legislative Reorganization Act of 1970 (84 Stat. 1140), and were made part of the rules on January 22, 1971 (H. Res. 5, 92d Congress, p. 144).

§ 699b. Concurrent resolution on Budget.

(g) Each standing committee of the House shall, on or before February 25 of each year, submit to the Committee on the Budget (1) its views and estimates with respect to all matters to be set forth in the concurrent resolution on the budget for the ensuing fiscal year which are within its jurisdiction or functions, and (2) an estimate of the total amounts of new budget authority, and budget outlays resulting therefrom, to be provided or authorized in all bills and resolutions within its jurisdiction which it intends to be effective during that fiscal year. The views and estimates submitted by the Committee on Ways and Means under the preceding sentence shall include a specific recommendation, made after holding public hearings, as to the appropriate level of the public debt which should be set forth in the concurrent resolution on the budget referred to in such sentence and serve as the basis for an increase or decrease in the statutory limit on such debt under the procedures provided by rule XLIX.

(h) As soon as practicable after a concurrent resolution on the budget for any fiscal year is agreed to, each standing committee of the House (after consulting with the appropriate committee or committees of the Senate) shall subdivide any allocations made to it in the joint explanatory statement accompanying the conference report on such resolution, and promptly report such subdivisions to the House, in the manner provided by section 302 of the Congressional Budget Act of 1974.

§ 699c. Reconciliation process.

(i) Each standing committee of the House which is directed in a concurrent resolution on the budget to determine and recommend changes in laws, bills, or resolutions under the reconciliation process shall promptly make such determination and recommendations, and report a reconciliation bill or resolution (or both) to the House or submit such recommendations to the Committee on the Budget, in accordance with the Congressional Budget Act of 1974.

The requirements of paragraphs (g), (h), and (i) were originally contained in sections 301(c), 302(b), and 310(c) respectively of the Congressional Budget Act of 1974 (88 Stat. 297) enacted July 12, 1974, and were incorporated into the rules effective January 3, 1975 (H. Res. 988, 93d Congress, p. 34470). The requirement in paragraph (g) that the Committee on Ways and Means include a specific recommendation as to the appropriate level of the public debt in its views and estimates submitted to the Committee on the Budget was added in the 96th Congress by Public Law 96-78 (approved Sept. 29, 1979, 93 Stat. 589) and was originally intended to apply to concurrent resolutions on the budget for fiscal years beginning on or after October 1, 1980 (fiscal 1981). However, upon the adoption of H. Res. 642 (96th Congress, Apr. 23, 1980, pp. 8789-90), the provisions of that public law amending the Rules of the House were made applicable to the third concurrent resolution on the budget for fiscal year 1980 as well as the first concurrent resolution on the budget for fiscal 1981. In the 99th Congress, the requirement in paragraph (g) for submissions to the Committee on the Budget by March 15 was changed to February 25 by sec. 232(c) of the Balanced Budget and Emergency Deficit Control Act of 1985 (Dec. 12, 1985).

Referral of Bills, Resolutions, and Other Matters to Committees

§ 700. Referral procedures.

5. (a) Each bill, resolution, or other matter which relates to a subject listed under any standing committee named in clause 1 shall be referred by the Speaker in accordance with the provisions of this clause.

(b) Every referral of any matter under paragraph (a) shall be made in such manner as to assure to the maximum extent feasible that each committee which has jurisdiction under clause 1 over the subject matter of any provision thereof will have responsibility for considering such provision and reporting to the House with respect thereto. Any precedents, rulings, and procedures in effect prior to the Ninety-Fourth Congress shall be applied with respect to referrals under this clause only to the extent that they will contribute to the achievement of the objectives of this clause.

(c) In carrying out paragraphs (a) and (b) with respect to any matter, the Speaker may refer the matter simultaneously to two or more committees for concurrent consideration or for consideration in sequence (subject to appropriate time limitations in the case of any committee), or divide the matter into two or more parts (reflecting different subjects and jurisdictions) and refer each such part to a different committee, or refer the matter to a special ad hoc committee appointed by the Speaker with the approval of the House (from the members of the committees having legislative jurisdiction) for the specific purpose of considering that matter and reporting to the House thereon, or make such other provision as may be considered appropriate.

This clause became effective as part of the rules on January 3, 1975 (H. Res. 988, 93d Congress, p. 34470). Prior to that time a bill or resolution could not be divided for reference among two or more committees, although it contained matter properly within the jurisdiction of several committees (IV, 4361). Paragraph (c) was amended on January 4, 1977 (H. Res. 5, pp. 53–70) to authorize the Speaker to place an appropriate time limit for consideration by the first committee or committees to which referred. A paragraph (e) was added to the clause on January 4, 1977 (H. Res. 5, pp. 53–70) to abolish the legislative jurisdiction in the House of the Joint Committee on Atomic Energy. The legislative jurisdiction of the Joint Committee was divided among the Committees on Armed Services (military applications of nuclear energy), Interior and Insular Affairs (regulation of the domestic nuclear energy industry), Foreign Affairs (nonproliferation of nuclear energy and international nuclear export agreements), Interstate and Foreign Commerce (now Energy and Commerce) (the same jurisdiction over nuclear energy as exercised over other energy) and Science and Technology (nuclear research and development). In addition, the Committee on Interstate and Foreign Commerce was given oversight jurisdiction over all laws, programs and government activities affecting nuclear energy. Paragraph (e) was deleted entirely in the 97th Congress (H. Res. 5, Jan. 5, 1981, p. 98). At the same time the House deleted paragraph (d) which formerly required the Congressional Research Service of the Library of Congress to prepare factual descriptions of each bill or resolution introduced in the House to be published in the Congressional Record.

Pursuant to his authority under this clause, the Speaker may refer a bill to a special ad hoc committee appointed by him with the approval of the House (from the members of the committees with legislative jurisdiction) for consideration and report on that particular bill (Speaker Albert, Apr. 22, 1975, p. 11261); may jointly refer a report of a select committee filed with the Clerk to standing committees of the House for their study (Speaker Albert, Feb. 16, 1976, p. 3158); may divide a communication or bill for reference where the proposition is divisible by jurisdiction (Speaker Albert, Feb. 4, 1975, p. 2253); may refer a bill jointly to two committees for their respective consideration of such provisions of the bill as fall within their jurisdiction (Speaker Albert, Feb. 25, 1976, p. 4315); may sequentially refer a bill reported from a committee to other committees jointly for a time certain for consideration of such portions of the bill as fall within their respective jurisdictions (Speaker Albert, Apr. 9, 1976, p. 10265; May 17, 1976, p. 14093); or may limit a sequential referral to matters having a direct effect on subjects within the committee's jurisdiction (Speaker O'Neill, June 7, 1983, p. ——); and may extend the time period of a sequentially referred bill and may jointly refer the bill to another committee under the same sequential referral conditions (Speaker Albert, June 1, 1976, p. 16588); may divide a matter for initial reference to committees and set (pursuant to the clause as amended in the 95th Congress) appropriate time limitations on the initial reference to each committee (Speaker O'Neill, Feb. 16, 1977, p. 4532); may sequentially refer a bill reported by one committee, with a committee amendment, to another committee for consideration of the bill and amendment of the previous committee (Speaker O'Neill, Oct. 13, 1977, p. 33716); may sequentially refer to a third committee a portion of an amendment in the nature of a substitute recommended by one of two committees to which the bill had been jointly referred, after the second committee reports the bill (Speaker O'Neill, May 22, 1985, p. 13126); may refer sequentially to two committees only a portion of the amendment reported by the primary committee for consideration of such provisions within that portion as fall within their respective jurisdictions (Speaker Wright, Sept. 9, 1987, p. ——); may discharge a reported bill from the Union Calendar for sequential reference to another committee (Speaker O'Neill, Apr. 27, 1978, p. 11742; June 19, 1986, p. ——); may discharge a committee from the further consideration of a bill not reported by it within the time period for which the bill was referred by the Speaker and place the bill on the appropriate calendar (May 8, 1978, p. 12924); may jointly refer designated portions of a bill to a second committee while referring the entire bill to another committee (Speaker O'Neill, Mar. 3, 1982, p. 3155); may delimit the period for sequential consideration of a bill in terms of legislative days (June 30, 1988, p. ——); may sequentially refer a bill without day (Sept. 27, 1988, p. ——; and may sequentially refer a bill back to the first-reporting committee of joint referral when it is reported from the second-reporting committee of joint referral with a nongermane amendment within the jurisdiction of the first committee and not within the bounds of the initial referral (Oct. 4, 1988, p. ——). The Speaker announced a new application of his authority on sequential referrals in the 97th Congress, namely that the sequential referral of any bills or resolutions from a committee initially reporting a bill would be based upon the subject matter contained in any amendment recommended by the reporting committee, as well as upon the original text of the bill or resolution (Speaker O'Neill, Jan. 5, 1981, pp. 115, 116), or, as announced in the 100th Congress, in certain cases, based only upon the text of a reported substitute amendment in lieu of original text (Speaker Wright, Jan. 6, 1987, p. ——). In the 96th Congress, the Speaker had followed a more restrictive policy, permitting a sequential committee to review (1) those portions of introduced text within its jurisdiction and (2) those portions of an amendment within its jurisdiction when the introduced version also dictated a sequential referral to the committee (Speaker O'Neill, Apr. 15, 1980, p. 7760). The Speaker first exercised the authority to base referrals on committee amendments by sequentially referring a bill reported from the Committee on Public Works and Transportation, relating only to Corps of Engineers water projects as introduced but amended in committee to address general water resource policy affecting irrigation and reclamation projects and soil conservation programs, to the Committees on Agriculture and Interior and Insular Affairs for consideration of provisions of the committee amendment within their jurisdiction (Speaker O'Neill, May 20, 1981, p. 10361). Thus the Speaker may sequentially refer a reported bill to another committee solely for consideration of provisions of the first committee's amendment within its jurisdiction and not for consideration of the entire bill (Apr. 5, 1982, p. 6580), may sequentially refer a reported bill to two other committees for different periods of time, solely for consideration of designated sections of the first committee's recommended amendment (May 18, 1982, p. 10418; Aug. 1, 1985, p. 22681), may discharge from the Union Calendar and sequentially refer to another committee a bill solely for consideration of designated portions of the first committee's amendment (May 21, 1982, p. 11169), and may sequentially refer a bill which has been jointly referred to several committees but reported only by one, for consideration of the reporting committee's amendment (June 17, 1982, p. 14069), and may sequentially refer a jointly referred bill when the first primary committee reports, for a period ending a number of days after the next primary committee reports (Speaker O'Neill, Aug. 1, 1985, p. 22681), or after all primary committees report (June 10, 1988, p. ——).

At the convening of the 98th Congress, the Speaker announced that he would exercise his authority, in situations which warranted it, to designate a primary committee among those to which a bill was jointly referred, and to impose time limits on committees having a secondary interest following the report of the primary committee under a joint referral (Speaker O'Neill, Jan. 3, 1983, p. 54). The Speaker may exercise this authority by referring a bill concurrently to two committees, with a time limit on one of the committees ending within a certain period after the other committee has reported to the House (Jan. 27, 1983, p. 937; Feb. 2, 1983, p. 1492; Apr. 9, 1987, p. ——) or with a time limit on one committee ending with a date certain (Speaker O'Neill, July 31, 1985, p. 21936). In the 98th Congress, the Speaker exercised his authority under this clause to sequentially refer a joint resolution making continuing appropriations, reported as privileged by the Committee on Appropriations pursuant to clause 4(a) of Rule XI, to the committee having legislative jurisdiction over a legislative provision in the resolution, without a time limitation on the sequential referral (H.J. Res. 367, Sept. 22, 1983, p. —).

Pursuant to the Speaker's authority under clause 2 of Rule XXIV, relating to messages from the Senate, he has discretionary authority to refer from the Speaker's table to standing committees, Senate amendments to House-passed bills, under any conditions permitted under clause 5 of Rule X for introduced bills; he may for example impose a time limitation for consideration only of a portion of the Senate amendment, not germane to the original House bill, by the standing committee with subject-matter jurisdiction, without referring the remainder of the Senate amendment to the House committee with jurisdiction over the original House bill (Speaker O'Neill, H.R. 31, Mar 26, 1981, p. 5397). At the convening of the 98th Congress, the Speaker announced his policy of referring nongermane Senate amendments under certain conditions (Jan. 3, 1983 p. 54).

Resolutions authorizing the Speaker to establish an ad hoc committee for the consideration of a particular bill under paragraph (c) of this clause, and extending the reporting date for such a committee, are privileged when offered from the floor at the Speaker's request (Speaker Albert, Apr. 22, 1975, p. 11261, Jan. 26, 1976, p. 876; Speaker O'Neill, Jan. 11, 1977, pp. 894–8; Apr. 21, 1977, pp. 11550–6).

The Speaker may refer to an ad hoc committee, established with the approval of the House, bills, resolutions, and other matters (including messages and communications) for the purpose of considering such matters and reporting to the House thereon, and the resolution creating such a committee may specify whether referrals to such a committee shall be by initial or sequential reference or by any of the other methods provided by this clause. (H. Res. 508, Apr. 21, 1977, pp. 11550–6; Speaker O'Neill, July 11, 1977, p. 22183, July 20, 1977, p. 24167). Further, under clause 5(c), the Speaker may divide a bill into two or more parts for initial reference to different committees and may also jointly refer a portion of the bill to some of those committees, and may set appropriate time limitations for reporting by every standing committee to which the bill is initially referred. (Speaker O'Neill, May 2, 1977, p. 13184).

Clause 4, Rule XXII provides the mechanism for changes of referrals erroneously made.

Election and Membership of Committees; Chairmen; Vacancies; Select and Conference Committees

§ 701a. Electing committees.

6. (a)(1) The standing committees specified in clause 1 shall be elected by the House within the seventh calendar day beginning after the commencement of each Congress, from nominations submitted by the respective party caucuses. It shall always be in order to consider resolutions recommended by the respective party caucuses to change the composition of standing committees.

(2) One-half of the members of the Committee on Standards of Official Conduct shall be from the majority party and one-half shall be from the minority party.

The old rule entrusting the appointment of committees to the Speaker was adopted in 1789 and amended in 1790 and in 1860 (IV, 4448–4476). Committees are now elected on resolution offered from the floor (VIII, 2171) and it is in order to move the previous question on each resolution (VIII, 2174). The resolution is not divisible (clause 6, Rule XVI), and is privileged (VIII, 2179, 2183). The requirement that nominations to standing committees be submitted by the respective party caucuses was made part of the rules effective January 3, 1975 (H. Res. 988, 93d Congress, p. 34470). H. Res. 988 also eliminated the designations in the rules of the numbers of Members comprising the standing committees, thereby permitting the House to establish committee size by the numbers of Members elected to each committee pursuant to this paragraph. The role of the party caucuses in presenting privileged resolutions to the House electing Members to committees is discussed in detail in Deschler's Precedents, Vol. 4, Ch. 17, § 9.

The paragraph in this form became effective January 3, 1975 (H. Res. 988, 93d Congress, p. 34470). Prior to that date, the rule which established the size of the Committee on Standards of Official Conduct at 12 Members also required that 6 Members be elected from the majority and 6 from the minority party. In the 99th Congress, the requirement for early election of standing committees within the first seven calendar days and the conferral of privileged status on resolutions from the party caucuses to change the composition of standing committees were added in subparagraph (a)(1) by sec. 227 of the Balanced Budget and Emergency Deficit Control Act of 1985 (Dec. 12, 1985).

§ 701b. Party membership as basis for election.

(b) Membership on standing committees during the course of a Congress shall be contingent on continuing membership in the party caucus or conference that nominated Members for election to such committees. Should a Member cease to be a member of a particular party caucus or conference, said Member shall automatically cease to be a member of a standing committee to which he was elected on the basis of nomination by that caucus or conference. The chairman of the relevant party caucus or conference shall notify the Speaker whenever a Member ceases to be a member of a party caucus or conference and the Speaker shall notify the chairman of each standing committee on which said Member serves, that in accord with this rule, the Member's election to such committee is automatically vacated.

The requirement that membership on standing committees be contingent on continuing membership in a party caucus or conference was added to the rules as a new paragraph (b) in the 98th Congress (H. Res. 5, Jan. 3, 1983, p. 34) along with the mechanism for the automatic vacating of a Member's election to committee should his party relationship cease. The Speaker lays before the House communications relative to the removal of a Member from committee pursuant to this clause (Sept. 11, 1984, p. ——).

§ 701c. Committee chairmen.

(c) One of the Members of each standing committee shall be elected by the House, from nominations submitted by the majority party caucus, at the commencement of each Congress, as chairman thereof. In the temporary absence of the chairman, the

Member next in rank in the order named in the election of the committee, and so on, as often as the case shall happen, shall act as chairman; and in case of a permanent vacancy in the chairmanship of any such committee the House shall elect another chairman.

The requirement that nominations for chairmen be submitted by the majority party caucus was made part of the rules effective January 3, 1975 (H. Res. 988, 93d Congress, p. 34470). The remainder of the paragraph was first adopted on April 5, 1911 (VIII, 2201), and was continued in the Legislative Reorganization Act of 1946 (60 Stat. 812).

§ 701d. Requirement for subcommittees.

(d) Each standing committee of the House of Representatives, except the Committee on the Budget, that has more than twenty members shall establish at least four subcommittees.

This paragraph in its present form became effective on January 14, 1975 (H. Res. 5, 94th Congress, p. 20). The requirement that committees having more than fifteen members must establish at least four subcommittees was incorporated into the rules effective January 3, 1975 (H. Res. 988, 93d Congress, p. 34470).

(e) All vacancies in standing committees shall be filled by election by the House from nominations, submitted by the respective party caucus or conference.

This paragraph was first adopted in the 62d Congress (VIII, 2178). At the beginning of the 80th Congress it was amended to prevent a Member from serving on more than one standing committee, except that Members elected to serve on the Committees on District of Columbia or Un-American Activities (renamed the Committee on Internal Security and jurisdiction redefined on Feb. 19, 1969, p. 3723) could be elected to serve on not more than two standing committees, and that Members of the majority party, serving on the Committee on Expenditures in the Executive Departments (changed to Committee on Government Operations July 3, 1952, p. 9217) or House Administration could be elected to serve on two standing committees and no more. This limitation was continued through the 80th, 81st, and part of the 82d Congresses until July 3, 1952, p. 9217, when it was modified so that Members elected to serve on the

Committees on the District of Columbia, Government Operations, Un-American Activities or House Administration could be elected to serve on two standing committees and no more. It was restored to its original form by amendment of January 13, 1953, pp. 368–9, so that now there is no limitation in House rules on the number of committees to which a Member may be elected. Party caucuses or conferences however, have placed restriction on committee assignments. The role of the respective party caucus or conference in making nominations to fill vacancies in standing committees was made part of the rule in the 98th Congress (H. Res. 5, Jan. 3, 1983, p. 34).

Form of resolution electing a Member to a committee and fixing his rank thereon (Jan. 23, 1947, p. 536). The House by unanimous consent fixed the relative rank of two Members on a committee where an error had been made on the original appointment (Jan. 20, 1947, p. 481).

§ 701e. Select and conference committees.

(f) The Speaker shall appoint all select and conference committees which shall be ordered by the House from time to time. In appointing members to conference committees the Speaker shall appoint no less than a majority of members who generally supported the House position as determined by the Speaker. The Speaker shall name Members who are primarily responsible for the legislation and shall, to the fullest extent feasible, include the principal proponents of the major provisions of the bill as it passed the House.

The provision of paragraph (f) relating to select committees was adopted in 1880, and the provision in that paragraph relating to conference committees was first adopted in 1890, although the practice of leaving the appointment of conference committees to the Speaker had existed from the earliest years of the House's history (IV, 4470; VIII, 2192). Pursuant to this paragraph, the Speaker appoints all members of the Select Committee on Aging established by clause 6(g), Rule X (Speaker Albert, February 6, 1975, p. 2635).

Prior to 1880 the House might take from the Speaker the appointment of a select committee (IV, 4448, 4470; VIII, 2192) and on several occasions did so in fact (IV, 4471–4476).

In the earlier usage of the House the Member moving a select committee was appointed its chairman (II, 1275, III, 2342, IV, 4514–4516); but except for matters of ceremony, the inconvenience and even impropriety of the usage has caused it often to be disregarded in modern practice (IV, 4517-4523, 4671).

It is within the discretion of the Chair as to whom he appoints as conferees (June 24, 1932, p. 13876; July 8, 1947, p. 8469), and a motion to instruct the Speaker as to the number and composition of a conference committee on the part of the House is not in order (VIII, 2193, 3221).The Speaker may fill a vacancy on a conference committee by appointment but may not accept a resignation from a conference committee absent an order of the House (Nov. 4, 1987, p. ——).

Effective January 3, 1975 (H. Res. 988, 93d Congress, p. 34470), the Speaker was required to appoint a majority of members who generally supported the House position, as determined by him, to all conference committees.

The last sentence of paragraph (f) was added in the 95th Congress (H. Res. 5, Jan. 4, 1977, pp. 53-70). Under that paragraph as amended, the Speaker must appoint as conferees Members who are "primarily responsible for the legislation", but the exercise of his additional discretionary authority under that clause to (1) determine whether a majority of the conferees generally supported the House position and (2) to appoint to the maximum extent feasible the principal proponents of major provisions of the House-passed bill, is not subject to challenge on a point of order (Speaker O'Neill, Oct. 12, 1977, pp. 33434-5). The Speaker first exercised his discretionary authority on June 21, 1977 to appoint a principal proponent of an adopted floor amendment as an additional limited conferee on that issue (Speaker O'Neill, p. 20132). The Speaker may appoint conferees from committees which have not reported a measure, having jurisdiction over provisions of a non-germane Senate amendment to a House amendment to a Senate bill originally narrower in scope (Speaker O'Neill, Nov. 28, 1979, p. 33904), or having jurisdiction over provisions of an original Senate bill where the House amendment was narrower in scope (Speaker O'Neill, July 28, 1980, p. 19875; July 11, 1985, p. 18545). The Speaker has appointed as sole conferees on a nongermane portion of a Senate bill or amendment only members from the committee having jurisdiction over the subject matter thereof (Speaker O'Neill, Aug. 27, 1980, pp. 23548-9; July 24, 1986, p. ——), and also members from such committees as additional rather than exclusive conferees on other nongermane portions of the Senate bill (July 24, 1986, p. ——). Pursuant to paragraph (f) the Speaker may by the terms of his appointment empower a group of exclusive conferees to report in total disagreement (June 10, 1988, p. ——).

§ 701f. Party membership as basis for appointment.

(g) Membership on select and joint committees during the course of a Congress shall be contingent on continuing membership in the party caucus or conference the Member was a member of at the time of his appointment to a select or joint committee. Should a Member cease to be a member of that caucus or conference, said Member shall automatically cease to be a member of any select or joint committee to which he is assigned. The chairman of the relevant party caucus or conference shall notify the Speaker whenever a Member ceases to be a member of a party caucus or conference and the Speaker shall notify the chairman of each select or joint committee on which said Member serves, that in accord with this rule, the Member's appointment to such committee is automatically vacated.

This party membership requirement for select and joint committees analogous to paragraph (b) was added in the 98th Congress (H. Res. 5, 1983, Jan. 3, 1983, p. 34).

§ 701g. Delegates and Resident Commissioner.

(h) The Speaker may appoint the Resident Commissioner from Puerto Rico and Delegates to the House to any select committee and to any conference committee that is considering legislation reported from a committee on which they serve.

Effective January 3, 1975 (H. Res. 988, 93d Congress, p. 34470), the Speaker was authorized to appoint the Resident Commissioner from Puerto Rico and Delegates to be conferees by the addition of paragraph (h); that paragraph was further amended in the 96th Congress (H. Res. 5, Jan. 15, 1979, pp. 7–16) to authorize the Speaker to appoint the Resident Commissioner from Puerto Rico and Delegates to select committees as well.

§ 702. Aging.

(i) There shall be in the House the permanent Select Committee on Aging, which shall not have legislative jurisdiction but which shall have jurisdiction—

(1) to conduct a continuing comprehensive study and review of the problems of the older American, including but not limited to income maintenance, housing, health (including medical research), welfare, employment, education, recreation, and participation in family and community life as self-respecting citizens;

(2) to study the use of all practicable means and methods of encouraging the development of public and private programs and policies which will assist the older American in taking a full part in national life and which will encourage the utilization of the knowledge, skills, special aptitudes, and abilities of older Americans to contribute to a better quality of life for all Americans;

(3) to develop policies that would encourage the coordination of both governmental and private programs designed to deal with problems of aging; and

(4) to review any recommendations made by the President or by the White House Conference on Aging relating to programs or policies affecting older Americans.

This clause was incorporated into the rules effective January 3, 1975 (H. Res. 988, 93d Congress, p. 34470). The Speaker appoints all members of the Select Committee pursuant to his authority under clause 6(f), Rule X.

RULE XI.

RULES OF PROCEDURES FOR COMMITTEES.

In General

§ 703a. Committee procedure.

1. (a)(1) The Rules of the House are the rules of its committees and subcommittees so far as applicable, except that a motion to recess from day to day, and a motion to dispense with the first reading (in full) of a bill or resolution, if printed copies are available, are nondebatable motions of high privilege in committees and subcommittees.

(2) Each subcommittee of a committee is a part of that committee, and is subject to the authority and direction of that committee and to its rules so far as applicable.

Paragraph (a)(1) was first adopted December 8, 1931 (VIII, 2215), and amended March 23, 1955, pp. 3569, 3585. Effective January 22, 1971 (H. Res. 5, 92d Congress, p. 144), paragraph (a)(2) was incorporated into the rules, together with the reference to subcommittees contained in paragraph (a)(1), having been contained in the Legislative Reorganization Act of 1970 (84 Stat. 1140). This clause was amended in the 99th Congress to allow a privileged motion in committee and subcommittee to dispense with the first reading of a measure where printed copies are available (H. Res. 7, Jan. 3, 1985, p. 393). See sec. 412 of Jefferson's Manual, supra, for the requirement that a bill or resolution be read in full upon demand, prior to being read by paragraphs of sections for amendment. Each committee may appoint subcommittees (VI, 532), which should include majority and minority representation (IV, 4551), and confer on them powers delegated to the committee itself (VI, 532) except such powers as are reserved to the full committee by the rules of the House; but express authority has also been given subcommittees by the House (III, 1754-1759, 1801, 2499, 2504, 2508, 2517; IV, 4548).

§ 703b. Investigative authority.

(b) Each committee is authorized at any time to conduct such investigations and studies as it may consider necessary or appropriate in the exercise of its responsibilities under Rule X, and (subject to the adoption of expense resolutions as required by clause 5) to incur expenses (including travel expenses) in connection therewith.

§ 703c. Printing and binding.

(c) Each committee is authorized to have printed and bound testimony and other data presented at hearings held by the committee. All costs of stenographic services and transcripts in connection with any meeting or hearing of a committee shall be paid from the contingent fund of the House.

§ 703d. Activity reports.

(d) Each committee shall submit to the House, not later than January 2 of each odd-numbered year, a report on the activities of that committee under this rule and Rule X during the Congress ending at noon on January 3 of such year.

Paragraph (b) was incorporated into the rules effective January 3, 1975 (H. Res. 988, 93d Congress, p. 34470) and, together with clauses 2(m) and 2(n) of Rule XI, eliminated the necessity that each committee obtain such authority each Congress by a separate resolution reported from the Committee on Rules. Paragraph (c) was also made part of the rules on that date. The provisions of paragraph (d) were first made requirements of the rules on January 22, 1971 [(H. Res. 5, 92d Congress, p. 144) incorporating the provisions of section 118(b) of the Legislative Reorganization Act of 1970 (84 Stat. 1140)], and effective January 3, 1975 (in H. Res. 988, 93d Congress) exemptions from the reporting requirements for the Committees on Appropriations, Budget, House Administration, Rules and Standards of Official Conduct were removed, so the paragraph now applies to all committees.

Committee Rules

Adoption of written rules

§ 704a. Committee rules.

2. (a) Each standing committee of the House shall adopt written rules governing its procedure. Such rules—

(1) shall be adopted in a meeting which is open to the public unless the committee, in open session and with a quorum present, determines by rollcall vote that all or part of the meeting on that day is to be closed to the public;

(2) shall be not inconsistent with the Rules of the House or with those provisions of law having the force and effect of Rules of the House; and

(3) shall in any event incorporate all of the succeeding provisions of this clause to the extent applicable.

Each committee's rules specifying its regular meeting days, and any other rules of a committee which are in addition to the provisions of this clause, shall be published in the Congressional Record not later than thirty days after the Congress convenes in each odd-numbered year. Each select or joint committee shall comply with the provisions of this paragraph unless specifically prohibited by law.

The requirement that standing committees adopt written rules was first incorporated into the rules on January 22, 1971 (H. Res. 5, 92d Congress, p. 144) having been included in the Legislative Reorganization Act of 1970 (84 Stat. 1140). Clause 2(a) essentially in its present form became effective January 3, 1975 (H. Res. 988, 93d Congress, p. 34470), and on January 14, 1975 (H. Res. 5, 94th Congress, p. 20), paragraph (1) was amended to permit a rollcall vote to close the committee meeting at which committee rules are adopted only on the day of the meeting. Committees have historically adopted rules under which they function (I, 707; III, 1841, 1842; VIII, 2214). Committee rules are compiled by the Committee on Rules each Congress as a committee print. It is the responsibility of the committees, and not the House, to construe and enforce additional committee rules on the calling of committee meetings (Speaker Albert, July 22, 1974, pp. 24436–47). A Court has interpreted the statute, from which the last two sentences derive, providing for publication of committee rules in the Congressional Record, to be mandatory: where a Senate committee had adopted a rule setting one senator as a quorum for the purpose of taking sworn testimony, but had not published that rule in the Record by the date of the hearing, the rule was not valid at that time, and there was no "competent" tribunal before which alleged false testimony was given to support a perjury conviction. *U.S.* v. *Reinecke,* 524 F. 2d 435 (1975).

§ 704b. Committee Procedure generally.

Failure to follow certain procedural requirements imposed on committees by this rule may invalidate committee actions. Violation of the requirements as to open meetings and hearings and other hearing irregularities improperly overruled (see clause 2(g)(5), Rule XI) or the prescribed committee procedures for reporting bills and resolutions (clause 2(1), Rule XI) or failure to adhere to the prohibition against committees meeting without permission while the House is operating under the five-minute rule (clause 2(i), Rule XI) may in some instances be the basis for a point of order in the House, resulting in the recommitment of the bill. But a point of order does not ordinarily lie in the House against consideration of a bill by reason of defective committee procedures occurring prior to the time the bill is ordered reported to the House, Procedure ch. 17, sec. 11.1).

Many of the procedures applicable to committees derive from Jefferson's Manual, which govern the House and its committees in all cases to which they are applicable (Rule XLII). A committee may act only when together, and not by separate consultation and consent, nothing being the report (or recommendation) of the committee except what has been agreed to in committee actually assembled (Jefferson's Manual, sec. 407, supra). A measure before a committee for consideration must be read for amendment by section as in the House (Jefferson's Manual, sec. 412–414), and reading of the measure and of amendments thereto must be in full. The procedures applicable in the House as in the Committee of the Whole (see §§ 424 and 427, supra) generally apply to proceedings in committees of the House of Representatives, except that since a measure considered in committee must be read for amendment, a motion to limit debate under the five-minute rule in committee must be confined to the portion of the bill then pending. The previous question may only be moved on the measure in committee if the entire measure has been read, or considered as read, for amendment.

Committees generally conduct their business under the five-minute rule but may employ the ordinary motions which are in order in the House, such as under clause 4 of Rule XVI, and may also employ the motion to limit debate under the five-minute rule on a proposition which has been read.

Regular meeting days

§ 705. Committee meetings.

(b) Each standing committee of the House shall adopt regular meeting days, which shall be not less frequent than monthly, for the conduct of its business. Each such committee shall meet, for the consideration of any bill or resolution pending before the committee or for the transaction of other committee business, on all regular meeting days fixed by the committee, unless otherwise provided by written rule adopted by the committee.

Additional and special meetings

(c)(1) The chairman of each standing committee may call and convene, as he or she considers necessary, additional meetings of the committee for the consideration of any bill or resolution pending before the committee or for the conduct of other committee business. The committee shall meet for such purpose pursuant to that call of the chairman.

(2) If at least three members of any standing committee desire that a special meeting of the committee be called by the chairman, those members may file in the offices of the committee their written request to the chairman for that special meeting. Such request shall specify the measure or matter to be considered. Immediately upon the filing of the request, the

clerk of the committee shall notify the chairman of the filing of the request. If, within three calendar days after the filing of the request, the chairman does not call the requested special meeting, to be held within seven calendar days after the filing of the request, a majority of the members of the committee may file in the offices of the committee their written notice that a special meeting of the committee will be held, specifying the date and hour of, and the measure or matter to be considered at, that special meeting. The committee shall meet on that date and hour. Immediately upon the filing of the notice, the clerk of the committee shall notify all members of the committee that such special meeting will be held and inform them of its date and hour and the measure or matter to be considered; and only the measure or matter specified in that notice may be considered at that special meeting.

Ranking majority Member to preside in absence of chairman

(d) If the chairman of any standing committee is not present at any meeting of the committee, the ranking member of the majority party on the committee who is present shall preside at that meeting.

Paragraphs (b), (c), and (d) were first adopted December 8, 1931 (VIII, 2208), amended January 3, 1953, p. 24, and revised by the Legislative Reorganization Act of 1970 (84 Stat. 1140) and on January 22, 1971 (H. Res. 5, 92d Congress, p. 144).

A committee scheduled to meet on stated days, when convened on such day with a quorum present may proceed to the transaction of business regardless of the absence of the chairman (VIII, 2213, 2214).

A committee meeting being adjourned for lack of a quorum, a majority of the members of the committee may not, without the consent of the chairman, call a meeting of the committee on the same day (VIII, 2213).

Committee records

§ 706a.

(e)(1) Each committee shall keep a complete record of all committee action which shall include a record of the votes on any question on which a rollcall vote is demanded. The result of each such rollcall vote shall be made available by the committee for inspection by the public at reasonable times in the offices of the committee. Information so available for public inspection shall include a description of the amendment, motion, order, or other proposition and the name of each Member voting for and each Member voting against such amendment, motion, order, or proposition, and whether by proxy or in person, and the names of those Members present but not voting.

§ 706b. Votes in committees.

§ 706c. Committee files.

(2) All committee hearings, records, data, charts, and files shall be kept separate and distinct from the congressional office records of the Member serving as chairman of the committee; and such records shall be the property of the House and all Members of the House shall have access thereto, except that in the case of records in the Committee on Standards of Official Conduct respecting the conduct of any Member, officer, or employee of the House, no Member

of the House (other than a member of such committee) shall have access thereto without the specific, prior approval of the committee.

(3) Each committee shall include in its rules standards for availability of records of the committee delivered to the Archivist of the United States under rule XXXVI. Such standards shall specify procedures for orders of the committee under clause 3(b)(3) and clause 4(b) of rule XXXVI, including a requirement that nonavailability of a record for a period longer than the period otherwise applicable under that rule shall be approved by vote of the committee.

The first sentence of paragraph (e)(1) was derived from section 133(b) of the Legislative Reorganization Act of 1946 (60 Stat. 812) and made part of the standing rules on January 3, 1953, p. 24. The requirement that committee roll calls be subject to public inspection was added by section 104(b) of the Legislative Reorganization Act of 1970 (84 Stat. 1140) and made a part of the rules on January 22, 1971, p. 144 (H. Res. 5, 92d Congress). Effective on January 3, 1975 (H. Res. 988, 93d Congress, p. 34470), the requirement that proxy votes in committee be made available for public inspection was eliminated from this paragraph since proxies were prohibited as of that date, but on January 14, 1975, clause 2(f) of Rule XI was amended to permit proxies in committee, and this paragraph was likewise amended to reinsert the requirement of availability for public inspection (H. Res. 5, 94th Congress, p. 20).

Paragraph (e)(2) derives from section 202(d) of the Legislative Reorganization Act of 1946 (60 Stat. 812), was made a part of the rules on Jan. 3, 1953 (H. Res. 5, 83d Cong., p. 24), and was amended on Jan. 4, 1977 (H. Res. 5, 95th Cong., pp. 53–70) to restrict the access of Members to certain records of the Committee on Standards of Official Conduct. Paragraph (e)(3) was added in the 101st Congress (H. Res. 5, Jan. 3, 1989, p. ——).

A Member's right to access to committee files under this clause does not entitle him to make photostatic copies of such files (Speaker Rayburn, Aug. 14, 1957, pp. 14737–39), and such files may not be brought into the well of the House if the committee has not authorized such action (Speaker Rayburn, June 3, 1960, p. 11820). Furthermore, such access only allows a Member to examine executive session materials in committee rooms and does not permit a Member to copy or to take personal notes from such materials, to keep such notes or copies in his personal office files, or to release such materials to the public without the consent of the committee or subcommittee under clause 2(k)(7), Rule XI (Speaker O'Neill, Dec. 6, 1977, pp. 38470–3). This clause allowing all Members access to committee records and materials which are the property of the House does not necessarily apply to records within the possession of the executive branch which the members of the committee have been allowed to examine under limited conditions at the discretion of the executive agency in possession of such materials (Speaker O'Neill, July 31, 1980, p. 20765). Compare this clause with clause 7(c) of Rule XLVIII, which only permits access of non-members of the Select Committee on Intelligence to classified information in the possession of that committee when authorized by that committee.

While all Members have access to committee records under this clause, testimony or evidence taken in executive sessions of a committee is under the control and subject to the regulation of the committee and, under Rule XI, clause 2(k)(7) (§ 712, infra), cannot be released without the consent of the committee (Speaker pro tempore Mills, June 26, 1961, p. 11233). See also Procedure ch. 17, § 15.

In implementing clause 2(e)(2), committees may prescribe regulations to govern the manner of access to their files, such as requiring examination only in committee rooms. See the rules of the Committees on Armed Services, Budget and Foreign Affairs, Rules adopted by the Committees of Congress, compiled by the House Committee on Rules.

§ 707. Use of proxies.

(f) No vote by any member of any committee or subcommittee with respect to any measure or matter may be cast by proxy unless such committee, by written rule adopted by the committee, permits voting by proxy and requires that the proxy authorization shall be in writing, shall assert that the Member is absent on official business or is otherwise unable to be present at the meeting of the committee, shall designate the person who is to execute the proxy authorization, and shall be limited to a specific measure or matter and any amendments or motions pertaining thereto; except that a Member may authorize a general proxy only for motions to recess, adjourn or other procedural matters. Each proxy to be effective shall be signed by the member assigning his or her vote and shall contain the date and time of day that the proxy is signed. Proxies may not be counted for a quorum.

Effective January 22, 1971 (H. Res. 5, 92d Congress, p. 144) the provisions of section 106(b) of the Legislative Reorganization Act of 1970 (84 Stat. 1140) became part of the rules. Those provisions permitted committees to adopt written rules permitting proxies in writing, designating the person to execute the proxy, and limited to a specific measure or matter and amendments or motions relating thereto. Effective January 3, 1975 (H. Res. 988, 93d Congress, p. 34470), proxies in committee were prohibited, but on January 14, 1975 (H. Res. 5, 94th Congress, p. 20), the rule was amended to permit proxies in committees with the additional restrictions requiring an assertion that the Member is absent on official business or otherwise unable to attend, requiring the Member to sign and date the proxy, and permitting general proxies for procedural matters.

Open meetings and hearings

§ 708. (g)(1) Each meeting for the transaction of business, including the markup of legislation, of each standing committee or subcommittee thereof shall be open to the public except when the committee or subcommittee, in open session and with a majority present, determines by rollcall vote that all or part of the remainder of the meeting on that day shall be closed to the public: *Provided, however,* That no person other than members of the committee and such congressional staff and such departmental representatives as they may authorize shall be present at any business or markup session which has been closed to the public. This paragraph does not apply to open committee hearings which are provided for by clause 4(a)(1) of Rule X or by subparagraph (2) of this paragraph, or to any meeting that relates solely to internal budget or personnel matters.

(2) Each hearing conducted by each committee or subcommittee thereof shall be open to the public except when the committee or subcommittee, in open session and with a majority present, determines by rollcall vote that all or part of the remainder of that hearing on that day shall be closed to the public because disclosure of testimony, evidence, or other matters to be considered would endanger the national security or would violate any law or rule of the House of Representatives. Notwithstanding the requirements of the preceding sentence, a majority of those present, there being in attendance the requisite number required under the rules of the committee to be present for the purpose of taking testimony,

(A) may vote to close the hearing for the sole purpose of discussing whether testimony or evidence to be received would endanger the national security or violate clause 2(k)(5) of Rule XI; or

(B) may vote to close the hearing, as provided in clause 2(k)(5) of Rule XI.

No Member may be excluded from nonparticipatory attendance at any hearing of any committee or subcommittee, with the exception of the Committee on Standards of Official Conduct, unless the House of Representatives shall by majority vote authorize a particular committee or subcommittee, for purposes of a particular series of hearings on a particular article of legislation or on a particular subject of investigation, to close its hearings to Members by the same procedures designated in this subparagraph for closing hearings to the public: *Provided, however,* That the committee or subcommittee may by the same procedure vote to close one subsequent day of hearing except that the Committee on Appropriations, the Committee on Armed Services, and the Permanent Select Committee on Intelligence and the subcommittees therein may, by the same procedure, vote to close up to five additional consecutive days of hearings.

(3) Each committee of the House (except the Committee on Rules) shall make public announcement of the date, place and subject matter of any committee hearing at least one week before the commencement of the hearing. If the committee determines that there is good cause to begin the hearing sooner, it shall make the announcement at the earliest possible date. Any announcement made under this subparagraph shall be promptly published in the Daily Digest and promptly entered into the committee scheduling service of the House Information Systems.

(4) Each committee shall, insofar as is practicable, require each witness who is to appear before it to file with the committee (in advance of his or her appearance) a written statement of the proposed testimony and to limit the oral presentation at such appearance to a brief summary of his or her argument.

(5) No point of order shall lie with respect to any measure reported by any committee on the ground that hearings on such measure were not conducted in accordance with the provisions of this clause; except that a point of order on that ground may be made by any member of the committee which reported the measure if, in the committee, such point of order was (A) timely made and (B) improperly overruled or not properly considered.

(6) The preceding provisions of this paragraph do not apply to the committee hearings which are provided for by clause 4(a)(1) of Rule X.

Paragraphs (1) and (2) relating to open committee meetings and hearings, were first made part of the rules on March 7, 1973 (H. Res. 259, 93d Cong., pp. 6713–6720). They were amended on January 14, 1975 (H. Res. 5, 94th Cong., p. 20), to limit to one day (in case of a committee meeting) or to one day plus one subsequent day (in the case of a hearing) the period during which a committee may close its session. These clauses were again amended on January 4, 1977 (H. Res. 5, 95th Cong., pp. 53–70), to require that a majority (rather than a quorum) be present when a committee or subcommittee votes to close a meeting or hearing and to provide that a non-committee Member cannot be excluded from a hearing except by a vote of the House. However, paragraph (2) was amended in the 96th Congress (H. Res. 5, Jan. 15, 1979, p. 8) to permit a majority of those present under the rules of the committee for the purpose of taking testimony (not less than two Members as provided in clause 2(h)(1), Rule XI) to vote to close a hearing either to discuss whether the testimony would endanger national security or would violate clause 2(k)(5) of this rule, or to proceed to close the hearing as provided by clause 2(k)(5). In the 98th Congress paragraph (2) was amended further to permit the Committees on Appropriations, Armed Services and Intelligence and their subcommittees, when voting in open session with a quorum present, to close a hearing on that particular day and for up to five additional days, for a total of not to exceed six days (H. Res. 5, Jan. 3, 1983, p. 34).

Paragraphs (3)–(6) derive from sections 111(b), 113(b), 115(b) and 242(c) respectively of the Legislative Reorganization Act of 1970 (84 Stat. 1140) and became part of the rules January 22, 1971 (H. Res. 5, 92d Congress,

p. 144). Effective January 3, 1975 (H. Res. 988, 93d Congress, p. 34470), these provisions were inadvertently omitted from the rules, and were therefore reinserted on January 14, 1975 (H. Res. 5, 94th Congress, p. 20). Paragraph (3) was amended in the 97th Congress (H. Res. 5, Jan. 5, 1981, pp. 98-113) to add the requirement of prompt entering of public notice of committee meetings into the committee scheduling service of the House Information Systems.

Quorum for taking testimony and certain other action

§ 709. (h)(1) Each committee may fix the number of its members to constitute a quorum for taking testimony and receiving evidence which shall be not less than two.

(2) Each committee (except the Committee on Appropriations, the Committee on the Budget, and the Committee on Ways and Means) may fix the number of its members to constitute a quorum for taking any action other than the reporting of a measure or recommendation which shall be not less than one-third of the members.

This paragraph when adopted on March 23, 1955, pp. 3569, 3585, only related to the authority of a committee to fix quorum of not less than two for taking testimony. On January 4, 1977 (H. Res. 5, 95th Cong., pp. 53-70) paragraph (2) was added to authorize committees to fix a quorum less than a majority for certain other action. Under clause (g) of this rule, a majority of a committee or subcommittee must be present when a committee or subcommittee votes to close a meeting or hearing, under clause (m) of this rule a majority of a committee or subcommittee must be present to authorize and issue a subpoena, and under clause 2(l)(2)(A) of this rule, a majority of a committee or subcommittee must be present to order a measure or recommendation reported.

By unanimous consent the Committee on Standards of Official Conduct was authorized to receive evidence and take testimony before a quorum of one of its Members for the remainder of the second session of the 100th Congress (Oct. 13, 1988, p. ——).

Prohibition against committee meetings during five-minute rule and during joint sessions and joint meetings

§ 710. (i)(1) No committee of the House (except the Committee on Appropriations, the Committee on the Budget, the Committee on House Administration, the Committee on Rules, and the Committee on Standards of Official Conduct, and the Committee on Ways and Means) may sit, without special leave, while the House is reading a measure for amendment under the five-minute rule. For purposes of this subparagraph, special leave will be granted unless 10 or more Members object.

(2) No committee of the House may sit during a joint session of the House and Senate or during a recess when a joint meeting of the House and Senate is in progress.

This clause had its origin in 1794. It was omitted from Rule XI in the adoption of rules for the 80th Congress but remained effective as part of the Legislative Reorganization Act of 1946, the applicable provisions of which were continued as a part of the rules of the House. While the rule formerly prohibited committees from sitting at any time when the House was in session, it was narrowed to proscribe sittings during the five-minute rule by the Legislative Reorganization Act of 1970 [84 Stat. 1140, § 117(b)] and this revision was made part of the standing rules on January 22, 1971 (H. Res. 5, 92d Cong.). Effective January 3, 1975 (H. Res. 998, 93d Congress, p. 34470), the committees exempted from this clause were Appropriations, Budget and Rules, and effective January 4, 1977 (H. Res. 5, 95th Cong., pp. 53–70) the Committee on Standards of Official Conduct was also exempted. The Committee on Ways and Means was traditionally permitted to sit during proceedings under the five-minute rule by unanimous consent granted each Congress (January 29, 1975, p. 1677) until it was exempted from the rule in the 97th Congress (H. Res. 5, Jan. 5, 1981, pp. 98–113). The provision that special leave to sit will be granted if ten Members do not object was added to the clause on January 4, 1977 (H. Res. 5, 95th Cong., pp. 53–70). The exemption for the Committee on House Administration and the prohibition against committee meetings during joint meetings or joint sessions were added in the 101st Congress (H. Res. 5, Jan. 3, 1989, p. ——).

Leave for a committee to sit during sessions of the House does not release its members from liability to arrest during a call of the House (IV, 3020). The Speaker declared a committee meeting void and directed a bill stricken from the calendar where it was shown that the committee reporting it had sat and ordered it reported during the session of the House without permission (April 20, 1934, p. 7057).

A request that a committee (not exempted from the rule) have leave to sit during sessions of the House has no privileged status in the order of business (IV, 4547), although 10 objections are required to prevent the granting of such a request in the 95th Congress, and permission for all committees to sit during the five-minute rule may be accomplished only by unanimous consent and not by motion (Oct. 22, 1975, p. 33695). The Speaker has interpreted the provisions of this paragraph to require the objection of only one Member, as opposed to ten, to deny permission for a committee to sit, while the House is operating under the five-minute rule, on a day or days for which the legislative schedule of the House has not been announced by the leadership (July 29, 1977, p. 25669). The Chair's count is not subject to challenge on appeal (Sept. 12, 1978, p. 28984). Consistent with the Speaker's policy of assuring adequate notice to Members of requests for committees to sit under the five-minutes rule (Aug. 4, 1982, p. 19375), the Chair may, in lieu of entertaining a motion for a call of the House, temporarily withdraw recognition from the Member making the request at a time when no votes or quorum calls are anticipated (Aug. 16, 1982, p. 21219). On Mar. 3, 1983, the Speaker announced more definitive guidelines as to when during a legislative day he would recognize Members for request that committees be permitted to sit (98th Cong., p. 3885). Pursuant to that policy, the Chair advised, on a day when no rollcall votes were scheduled, that such a request should be withheld until the next day, when Members had been advised that rollcall votes could occur (May 23, 1983, p. ——). Requests requiring 10 objections are not entertained until the legislative schedule for the week covered by the request has been announced, and then only prior to completion of all legislative business on the day of the request (June 12, 1986, p. ——). Neither requests requiring 10 objections nor unanimous consent requests for leave to sit are entertained during special order speeches after the conclusion of legislative business (Apr. 22, 1987, p. ——).

Calling and interrogation of witnesses

§711. (j)(1) Whenever any hearing is conducted by any committee upon any measure or matter, the minority party Members on the committee shall be entitled, upon request to the chairman by a majority of them before the completion of the hearing, to call witnesses selected by the minority to testify with respect to that measure or matter during at least one day of hearing thereon.

(2) Each committee shall apply the five-minute rule in the interrogation of witnesses in any hearing until such time as each member of the committee who so desires has had an opportunity to question each witness.

Paragraph (j)(1) was contained in section 114(b) of the Legislative Reorganization Act of 1970 (84 Stat. 1140) and was made a part of the rules on January 22, 1971 (H. Res. 5, 92d Congress, p. 144). Paragraph (j)(2) was added to the rules on that latter date. While a majority of the minority members of a committee are entitled to call witnesses selected by the minority for at least one day of hearings, no rule of the House requires the calling of witnesses on opposing sides of an issue (Oct. 14, 1987, p. ——).

Investigative hearing procedures

§ 712. (k)(1) The chairman at an investigative hearing shall announce in an opening statement the subject of the investigation.

(2) A copy of the committee rules and this clause shall be made available to each witness.

(3) Witnesses at investigative hearings may be accompanied by their own counsel for the purpose of advising them concerning their constitutional rights.

(4) The chairman may punish breaches of order and decorum, and of professional ethics on the part of counsel, by censure and exclusion from the hearings; and the committee

may cite the offender to the House for contempt.

(5) Whenever it is asserted that the evidence or testimony at an investigatory hearing may tend to defame, degrade, or incriminate any person,

(A) such testimony or evidence shall be presented in executive session, notwithstanding the provisions of clause 2(g)(2) of this Rule, if by a majority of those present, there being in attendance the requisite number required under the rules of the committee to be present for the purpose of taking testimony, the committee determines that such evidence or testimony may tend to defame, degrade, or incriminate any person; and

(B) the committee shall proceed to receive such testimony in open session only if a majority of the members of the committee, a majority being present, determine that such evidence or testimony will not tend to defame, degrade, or incriminate any person.

In either case the committee shall afford such person an opportunity voluntarily to appear as a witness, and receive and dispose of requests from such person to subpoena additional witnesses.

(6) Except as provided in subparagraph (5), the chairman shall receive and the committee shall dispose of requests to subpoena additional witnesses.

(7) No evidence or testimony taken in executive session may be released or used in public sessions without the consent of the committee.

(8) In the discretion of the committee, witnesses may submit brief and pertinent sworn statements in writing for inclusion in the record. The committee is the sole judge of the pertinency of testimony and evidence adduced at its hearing.

(9) A witness may obtain a transcript copy of his testimony given at a public session or, if given at an executive session, when authorized by the committee.

The provisions of paragraph (k) were first incorporated into the rules on March 23, 1955, pp. 3569, 3585. The requirement of paragraph (k)(2) that a copy of committee rules be furnished to each witness was added January 22, 1971 (H. Res. 5, 92d Congress, p. 144), and the former requirement of paragraph (k)(9) that a witness must pay the cost of a transcript copy of his testimony was eliminated effective January 3, 1975 (H. Res. 988, 93d Congress, p. 34470). Paragraph (k)(5) was amended by H. Res. 5 (96th Cong. Jan. 15, 1979, pp. 7-16) to permit a committee to hear testimony asserted to be defamatory in executive session upon a determination by a majority of those present that such testimony is indeed defamatory, degrading or incriminating. The requirements of clause 2(g) (1) and (2) and of 2(m)(2)(A) of this rule that a majority of the committee or subcommittee shall constitute a quorum for the purposes of closing meetings or hearings or issuing subpoenas have been construed to require, under clause 2(k)(7) of this rule, that a majority shall likewise constitute a quorum to release or make public any evidence or testimony received in any closed meeting or hearing and any other executive session record of the committee or subcommittee. See also clauses 3(a) and 7(c)(2) of Rule XLVIII, which provide that executive session material transmitted by the Intelligence Committee to another committee of the House becomes the executive session material of the recipient committee by virtue of the nature of the material and the injunction of clauses 7 (c), (d) and (e) of that rule which prohibit disclosure of information provided to committees or Members of the House except in a secret session.

Committee procedures for reporting bills and resolutions

§ 713a. Chairman's Duty.

(l)(1)(A) It shall be the duty of the chairman of each committee to report or cause to be reported promptly to the House any measure approved by the committee and to take or cause to be taken necessary steps to bring the matter to a vote.

§ 713b. Filing by majority of Committee.

(B) In any event, the report of any committee on a measure which has been approved by the committee shall be filed within seven calendar days (exclusive of days on which the House is not in session) after the day on which there has been filed with the clerk of the committee a written request, signed by a majority of the members of the committee, for the reporting of that measure. Upon the filing of any such request, the clerk of the committee shall transmit immediately to the chairman of the committee notice of the filing of that request. This subdivision does not apply to the reporting of a regular appropriation bill by the Committee on Appropriations prior to compliance with subdivision (C) and does not apply to a report of the Committee on Rules with respect to the rules, joint rules, or order of business of the House or to the reporting of a resolution of inquiry addressed to the head of an executive department.

Paragraph (1)(A) is from section 133(c) of the Legislative Reorganization Act of 1946 (60 Stat. 812) and was made a part of the standing rules on January 3, 1953, p. 24. It is sufficient authority for the chairman to call up a bill on Calendar Wednesday (Speaker Rayburn, Feb. 22, 1950, p. 2162). Paragraph (1)(B) is derived from section 105 of the Legislative Reorganization Act of 1970 (84 Stat. 1140) and was made part of the rules on January 22, 1971 (H. Res. 5, 92d Congress, p. 144). Paragraph (1)(C), added effective Jan. 3, 1975 (H. Res. 988, 93d Cong., p. 34470), incorporating section 307 of the Congressional Budget Act of 1974 (88 Stat. 313), requiring the Committee on Appropriations to complete subcommittee markup and full committee action on all regular appropriation bills before reporting any of them to the House, to the maximum extent practicable, and to submit a report comparing budget resolution levels for budget authority and outlays, was repealed by sec. 232(e) of P.L. 99-177, the Balanced Budget and Emergency Deficit Control Act of 1985 (Dec. 12, 1985).

Committee reports must be submitted while the House is in session (with the exception of reports on certain budget resolutions under section 310(a) of the Congressional Budget Act, sec. 1007 infra), and that requirement may be waived by unanimous consent only, and not by motion (Dec. 17, 1982, p. 31951).

§ 713c. Requirement of quorum.

(2)(A) No measure or recommendation shall be reported from any committee unless a majority of the committee was actually present.

§ 713d. Vote on reporting.

(B) With respect to each rollcall vote on a motion to report any bill or resolution of a public character, the total number of votes cast for, and the total number of votes cast against, the reporting of such bill or resolution shall be included in the committee report.

Paragraph (2)(A) is from section 133(d) of the Legislative Reorganization Act of 1946 (60 Stat. 812) and was made a part of the rules on January 3, 1953, p. 24. The point of order that a bill was reported from a committee without a formal meeting and a quorum present comes too late if debate has started on a bill in the House (VIII, 2223; February 24, 1947, p. 1374). No committee report is valid unless authorized with a quorum of the committee actually present at the time the vote is taken (IV, 4584; VIII, 2211, 2212, 2221, 2222), and while Speakers have indicated that committee members may come and go during the course of the vote if the rollcall indicates that a quorum was present (VIII, 2222), where it is admitted that a quorum was not in the room at any time during the vote and the committee transcript does not show a quorum acting as a quorum, the Chair will sustain the point of order (VIII, 2212). Where the committee transcript was not conclusive and the manager of the bill gave absolute assurance that a majority of the full committee was actually present when the bill was ordered reported the Speaker overruled a point of order made under paragraph (2)(A) (Oct. 22, 1987, p. ——). A point of no quorum pending a committee vote on ordering a measure reported may provoke a quorum call requiring a majority of the committee to be present in the committee room. A committee may act only when together, nothing being the report of the committee except what has been agreed to in committee actually assembled (Jefferson's Manual § 407, supra).

The requirement of paragraph (2)(B) was contained in section 104(b) of the Legislative Reorganization Act of 1970 (84 Stat. 1140) and was incorporated into the rules on January 22, 1971 (H. Res. 5, 92d Congress, p. 144).

§ 713e. Content of reports

(3) The report of any committee on a measure which has been approved by the committee (A) shall include the oversight findings and recommendations required pursuant to clause 2(b)(1) of Rule X separately set out and clearly identified; (B) the statement required by section 308(a)(1) of the Congressional Budget Act of 1974, separately set out and clearly identified, if the measure provides new budget authority (other than continuing appropriations), new spending authority described in section 401(c)(2) of such Act, new credit authority, or an increase or decrease in revenues or tax expenditures; (C) the estimate and comparison prepared by the Director of the Congressional Budget Office under section 403 of such Act, separately set out and clearly identified, whenever the Director (if timely submitted prior to the filing of the report) has submitted such estimate and comparison to the committee; and (D) a summary of the oversight findings and recommen-

dations made by the Committee on Government Operations under clause 4(c)(2) of Rule X separately set out and clearly identified whenever such findings and recommendations have been submitted to the legislative committee in a timely fashion to allow an opportunity to consider such findings and recommendations during the committee's deliberations on the measure.

The provisions of paragraph (3) became effective January 3, 1975 (H. Res. 988, 93d Congress, p. 34470); and the clause was amended January 4, 1977 (H. Res. 5, 95th Cong., pp. 53–70), to correct a cross-reference. Subdivisions (B) and (C) are requirements of sections 308(a) and 403 of the Congressional Budget Act of 1974 (88 Stat. 297). Subparagraph (B) was amended in the 99th Congress by sec. 232(f) of P.L. 99-177, the Balanced Budget and Emergency Deficit Control Act of 1985 (Dec. 12, 1985) to include new entitlement and credit authority in conformity with sec. 308(a)(1) of the Congressional Budget Act of 1974, as amended by that law.

§ 713f. Inflationary impact.

(4) Each report of a committee on each bill or joint resolution of a public character reported by such committee shall contain a detailed analytical statement as to whether the enactment of such bill or joint resolution into law may have an inflationary impact on prices and costs in the operation of the national economy.

Paragraph (4) became a part of the rules effective January 3, 1975 (H. Res. 988, 93d Congress, p. 34470).

§ 714. Minority views.

(5) If, at the time of approval of any measure or matter by any committee, other than the Committee on Rules, any member of the committee gives notice of intention to file supplemental, minority, or additional views, that member shall be entitled

to not less than three calendar days (excluding Saturdays, Sundays, and legal holidays) in which to file such views, in writing and signed by that member, with the clerk of the committee. All such views so filed by one or more members of the committee shall be included within, and shall be a part of, the report filed by the committee with respect to that measure or matter. The report of the committee upon that measure or matter shall be printed in a single volume which—

(A) shall include all supplemental, minority, or additional views which have been submitted by the time of the filing of the report, and

(B) shall bear upon its cover a recital that any such supplemental, minority, or additional views (and any material submitted under subdivisions (C) and (D) of subparagraph (3)) are included as part of the report.

This subparagraph does not preclude—

(i) the immediate filing or printing of a committee report unless timely request for the opportunity to file supplemental, minority, or additional views has been made as provided by this subparagraph; or

(ii) the filing by any such committee of any supplemental report upon any measure or matter which may be required for the correction of any technical error in a previous report made by that committee upon that measure or matter.

Paragraph (5) was originally included in section 107 of the Legislative Reorganization Act of 1970 (84 Stat. 1140) and was incorporated into the rules on January 22, 1971 (H. Res. 5, 92d Congress, p. 144). Subdivision (B) was added effective January 3, 1975 (H. Res. 988, 93d Congress, p. 34470).

§ 715. Three-day layover.

(6) A measure or matter reported by any committee (except the Committee on Rules in the case of a resolution making in order the consideration of a bill, resolution, or other order of business), shall not be considered in the House until the third calendar day (or the tenth calendar day in the case of a concurrent resolution on the budget), excluding Saturdays, Sundays, and legal holidays on which the report of that committee upon that measure or matter has been available to the Members of the House. Nor shall it be in order to consider any measure or matter reported by any committee (except the Committee on Rules in the case of a resolution making in order the consideration of a bill, resolution, or other order of business, or any other committee in the case of a privileged resolution), unless copies of such report and the reported measure or matter have been available to the Members for at least three calendar days, excluding Saturdays, Sundays, and legal holidays during which the House is not in session before the beginning of such consideration: *Provided, however,* That it shall always be in order to call up for consideration, notwithstanding the provisions of clause 4(b), Rule XI, a report from the Committee on Rules specifically providing for the consider-

ation of a reported measure or matter notwithstanding this restriction. If hearings have been held on any such measure or matter so reported, the committee reporting the measure or matter shall make every reasonable effort to have such hearings printed and available for distribution to the Members of the House prior to the consideration of such measure or matter in the House.

This subparagraph shall not apply to—

(A) any measure for the declaration of war, or the declaration of a national emergency, by the Congress; or

(B) any decision, determination, or action by a Government agency which would become or continue to be, effective unless disapproved or otherwise invalidated by one or both Houses of Congress.

For the purposes of the preceding sentence, a Government agency includes any department, agency, establishment, wholly owned Government corporation, or instrumentality of the Federal Government or the government of the District of Columbia.

Paragraph (6) was originally contained in section 108 of the Legislative Reorganization Act of 1970 (84 Stat. 1140) and was incorporated into the rules on January 22, 1971 (H. Res. 5, 92d Congress, p. 144). The rule was amended on October 13, 1972 (H. Res. 1153, 92d Cong., pp. 36013-23), on January 3, 1975 (H. Res. 988, 93d Cong., p. 34470), on January 14, 1975 (H. Res. 5, 94th Cong., p. 20); and on February 26, 1976 (H. Res. 868, 94th Cong., p. 4625) it was further amended to require that reports and reported measures be available for two hours but to permit the immediate consideration of a resolution reported from the Committee on Rules waiving this layover requirement. The clause was again amended on January 4, 1977 (H. Res. 5, 95th Cong., pp. 53-70) to permit consideration of a measure on the third day a report is available rather than on the third day following its availability, and was further amended on January 15, 1979 (H. Res. 5, 96th Cong., p. 8) to require that copies of a committee report be available for three calendar days rather than two hours before the beginning of consideration of the reported measure. The availability requirement is not applicable to privileged reports from the Committee on Rules or to bills before the House which have not been reported from committee (Speaker Albert, Aug. 10, 1976, p. 26793), and the exception from the three-day availability requirement for certain reports from the Committee on Rules must be read in light of the broader authority, contained in clause 4(b) of this rule, conferred on that committee to call up other reports after one day of availability. The Committee on Rules has the authority under clause 4(a), Rule XI to report a special order making in order the text of an introduced bill as a substitute original text for a reported bill, and no point of order lies that such introduced text has not been available for three days under this rule, which only applies to the consideration of reported measures themselves (Oct. 9, 1986, p. ——). The exceptions from the three-day layover requirement provided in the last two sentences of this paragraph were expanded in the 97th Congress (H. Res. 5, Jan. 5, 1981, p. 98) to include resolutions called up pursuant to legislative veto provisions in laws having the effect of approving or invalidating the actions of any government agency (and not just agencies of the executive branch). That exception allows the consideration of a measure disapproving an executive branch decision pursuant to statute within three days of the expiration of the congressional review period, notwithstanding the three-day availability requirement (concurrent resolution disapproving a regulation of the Federal Trade Commission pursuant to the Federal Trade Commission Improvements Act, Public Law 96-252) (May 26, 1982, pp. 12027-30). A report from a committee which raises a question of the privileges of the House, such as a report relating to the contemptuous conduct of a witness before the committee, may be considered notwithstanding the availability requirements of this clause (Speaker Albert, July 13, 1971, pp. 24720-23; see also Deschler's Precedents ch. 14, § 7.4, fn. 10 with respect to impeachment reports).

§ 716. With respect to the committee expense resolutions reported by the Committee on House Administration pursuant to clause 5 of Rule XI, the requirement of that clause for the one-day availability of printed copies, rather than the three-day requirement of this rule, is applicable, but other privileged resolutions reported from that committee are now subject to this clause (Speaker Albert, Mar. 6, 1975, p. 5537).

§ 717. (7) If, within seven calendar days after a measure has, by resolution, been made in order for consideration by the House, no motion has been offered that the House consider that measure, any member of the committee which reported that measure may be recognized in the discretion of the Speaker to offer a motion that the House shall consider that measure, if that committee has duly authorized that member to offer that motion.

Paragraph (7) was contained in section 109 of the Legislative Reorganization Act of 1970 (84 Stat. 1140) and became part of the rules on January 22, 1971 (H. Res. 5, 92d Congress, p. 144).

Power to sit and act; subpoena power

§ 718. (m)(1) For the purpose of carrying out any of its functions and duties under this rule and Rule X (including any matters referred to it under clause 5 of Rule X), any committee, or any subcommittee thereof, is authorized (subject to subparagraph (2)(A) of this paragraph)—

(A) to sit and act at such times and places within the United States, whether the House is in session, has recessed, or has adjourned, and to hold such hearings, and

(B) to require, by subpoena or otherwise, the attendance and testimony of such witnesses and the production of such books, records, correspondence, memorandums, papers, and documents as it deems necessary. The chairman of the committee, or any member designated by such chairman, may administer oaths to any witness.

(2)(A) A subpoena may be authorized and issued by a committee or subcommittee under subparagaph (1)(B) in the conduct of any investigation or series of investigations or activities, only when authorized by a majority of the members voting, a majority being present. The power to authorize and issue subpoenas under subparagraph (1)(B) may be delegated to the chairman of the committee pursuant to such rules and under such limitations as the committee may prescribe. Authorized subpoenas shall be signed by the chairman of the committee or by any member designated by the committee.

(B) Compliance with any subpoena issued by a committee or subcommittee under subparagraph (1)(B) may be enforced only as authorized or directed by the House.

Prior to the adoption of clause 2(m) effective January 3, 1975 (H. Res. 988, 93d Congress, p. 34470), only the Committees on Appropriations, Budget, Government Operations, Internal Security and Standards of Official Conduct were permitted by the standing rules to perform the functions as specified in paragraphs (1)(A) and (B), and other standing and select committees were given those authorities by separate resolutions reported from the Committee on Rules each Congress. On January 14, 1975 (H. Res. 5, 94th Congress, p. 20), paragraph (2)(A) was amended to require authorized subpoenas to be signed by the chairman of the full committee or any member designated by the committee; and on January 4, 1977 (H. Res. 5, 95th Congress, pp. 53–70) the clause was altered to permit subcommittees, as well as full committees, to authorize subpoenas and to allow the delegation of such authority to the chairman of the full committee. A subpoena issued under this clause need only be signed by the chairman of the committee or by any member designated by the committee, whereas when the House issues an order or warrant the Speaker must under clause 4, Rule I issue the summons under his hand and seal, and it must be attested by the Clerk pursuant to clause 3, Rule III (III, 1668; see H. Rept. 96–1078, p. 22). Pursuant to 2 U.S.C. 191, the President of the Senate, the Speaker of the House of Representatives, or a chairman of any joint committee established by a joint or concurrent resolution of the two Houses of Congress, or of a committee of the whole, or of any committee of either House of Congress, is empowered to administer oaths to witnesses in any case under their examination, and any member of either House of Congress may administer oaths to witnesses in any matter depending in either House of Congress of which he is a Member, or any committee thereof.

While under this clause the Committee on Standards of Official Conduct may issue subpoenas in investigating the conduct of a Member, officer or employee of the House (the extent of the committee's jurisdiction under Rule X), where the House mandates a possible investigation by that committee of other persons not directly associated with the House, the committee's jurisdiction is thereby enlarged and a broader subpoena authority must be conferred on the committee (Mar. 3, 1976, p. 5165). Paragraph (2)(B) has been interpreted to require authorization by the full House before a subcommittee chairman could intervene in a law suit in order to gain access to documents subpoenaed by the subcommittee. *In re Beef Industry Antitrust Litigation*, 589 F.2d 786 (5th Cir. 1979).

Use of committee funds for travel

(n)(1) Funds authorized for a committee under clause 5 are for expenses incurred in the committee's activities; however, local currencies owned by the United States shall be made available to the committee and its employees engaged in carrying out their official duties outside the United States, its territories or possessions. No appropriated funds, including those authorized under clause 5, shall be expended for the purpose of defraying expenses of members of the committee or its employees in any country where local currencies are available for this purpose; and the following conditions shall apply with respect to travel outside the United States or its territories or possessions:

§ 719a. Committee Travel.

(A) No member or employee of the committee shall receive or expend local currencies for subsistence in any country for any day at a rate in excess of the maximum per diem set forth in applicable Federal law, or if the Member or employee is reimbursed for any expenses for such day, then the lesser of the per diem or the actual, unreimbursed expenses (other than for transportation) incurred by the Member or employee during that day.

§ 719b. Travel reports.

(B) Each member or employee of the committee shall make to the chairman of the committee an itemized report showing the dates each country was visited, the amount of per diem furnished, the cost of transportation furnished, any funds expended for any other official purpose and shall summarize in these categories the total foreign currencies and/or appropriated funds expended. All such individual reports shall be filed no later than sixty days following the completion of travel with the chairman of the committee for use in complying with reporting requirements in applicable Federal law and shall be open for public inspection.

(2) In carrying out the committee's activities outside the United States in any country where local currencies are unavailable, a member or employee of the committee may not receive reimbursement for expenses (other than for transportation) in excess of the maximum per diem set forth in applicable Federal law, or if the member or employee is reimbursed for any expenses for such day, then the lesser of the per diem or the actual, unreimbursed expenses (other than for transportation) incurred, by the Member or employee during any day.

(3) A member or employee of a committee may not receive reimbursement for the cost of any transportation in connection with travel outside of the United States unless the member or employee has actually paid for the transportation.

(4) The restrictions respecting travel outside of the United States set forth in subparagraphs (2) and (3) shall also apply to travel outside of the United States by Members, officers, and employees of the House authorized under clause 8 of rule I, clause 1(b) of this rule, or any other provision of these Rules of the House of Representatives.

(5) No local currencies owned by the United States may be made available under this paragraph for the use outside of the United States for defraying the expenses of a member of any committee after—

(A) the date of the general election of Members in which the Member has not been elected to the succeeding Congress; or

(B) in the case of a Member who is not a candidate in such general election, the earlier of the date of such general election or the adjournment sine die of the last regular session of the Congress.

Prior to the adoption of clause (n) and of clause 1(b) of Rule XI effective January 3, 1975 (H. Res. 988, 93d Congress, p. 34470), each committee was given separate authority to incur expenses in connection with their investigations and studies, and certain committees were authorized to use local currencies for foreign committee travel, in resolutions reported from the Committee on Rules in each Congress. This clause was amended on Jan. 4, 1977 (H. Res. 5, 95th Cong., pp. 53-70) to clarify the availability of local currencies for travel outside the United States and its territories and possessions, to require reports within 60 days for use in complying with statutory reporting requirements, and to authorize the Committee on House Administration to recommend in expense resolutions expenses for foreign as well as domestic travel. Clause (n)(1)(A) was further amended on March 2, 1977 (H. Res. 287, 95th Cong., pp. 5933–53) to limit all travel expenses to the maximum per diem rate or actual, unreimbursed expenses, whichever is less. As indicated in clause 1(b), the authority to incur expenses (including travel expenses) is subject to the adoption of expense resolutions reported from the Committee on House Administration as required by clause 5, Rule XI.

Under Public Law 95–384, § 22 (amending § 502(b) of the Mutual Security Act of 1954, 22 U.S.C. 1754), foreign local currencies owned or purchased by the United States may be used for foreign travel expenses by members or employees of standing or select committees when authorized by the chairman thereof, and by other Members or employees when authorized by the Speaker. Consolidated committee reports prepared on a quarterly basis, and individual reports required within 30 days after the travel involved, must be forwarded to the Clerk of the House and published in the Congressional Record.

Broadcasting of Committee Hearings

§ 720. 3. (a) It is the purpose of this clause to provide a means, in conformity with acceptable standards of dignity, propriety, and decorum, by which committee hearings, or committee meetings, which are open to the public may be covered, by television broadcast, radio broadcast, and still photography, or by any of such methods of coverage—

(1) for the education, enlightenment, and information of the general public, on the basis of accurate and impartial news coverage, regarding the operations, procedures, and practices of the House as a legislative and representative body and regarding the measures, public issues, and other matters before the House and its committees, the consideration thereof, and the action taken thereon; and

(2) for the development of the perspective and understanding of the general public with respect to the role and function of the House under the Constitution of the United States as an organ of the Federal Government.

(b) In addition, it is the intent of this clause that radio and television tapes and television film of any coverage under this clause shall not be used, or made available for use, as partisan political campaign material to promote or oppose the candidacy of any person for elective public office.

§721. Media coverage.

(c) It is, further, the intent of this clause that the general conduct of each meeting (whether of a hearing or otherwise) covered, under authority of this clause, by television broadcast, radio broadcast, and still photography, or by any of such methods of coverage, and the personal behavior of the committee members and staff, other Government officials and personnel, witnesses, television, radio, and press media personnel, and the general public at the hearing or other meeting shall be in strict conformity with and observance of the acceptable standards of dignity, propriety, courtesy, and decorum traditionally observed by the House in its operations and shall not be such as to—

(1) distort the objects and purposes of the hearing or other meeting or the activities of committee members in connection with that hearing or meeting or in connection with the

general work of the committee or of the House; or

(2) cast discredit or dishonor on the House, the committee, or any Member or bring the House, the committee, or any Member into disrepute.

(d) The coverage of committee hearings and meetings by television broadcast, radio broadcast, or still photography is a privilege made available by the House and shall be permitted and conducted only in strict conformity with the purposes, provisions, and requirements of this clause.

§722. When permitted.

(e) Whenever any hearing or meeting conducted by any committee of the House is open to the public, that committee may permit, by majority vote of the committee, that hearing or meeting to be covered, in whole or in part, by television broadcast, radio broadcast, and still photography, or by any of such methods of coverage, but only under such written rules as the committee may adopt in accordance with the purposes, provisions, and requirements of this clause: *Provided, however*, Each committee or subcommittee chairman shall determine, in his discretion, the number of television and still cameras permitted in a hearing or meeting room.

§723. Committee rules.

(f) The written rules which may be adopted by a committee under paragraph (e) of this clause shall contain provisions to the following effect:

(1) If the television or radio coverage of the hearing or meeting is to be presented to the public as live coverage, that coverage shall be conducted and presented without commercial sponsorship.

(2) No witness served with a subpoena by the committee shall be required against his or her will to be photographed at any hearing or to give evidence or testimony while the broadcasting of that hearing, by radio or television, is being conducted. At the request of any such witness who does not wish to be subjected to radio, television, or still photography coverage, all lenses shall be covered and all microphones used for coverage turned off. This subparagraph is supplementary to clause 2(k)(5) of this rule, relating to the protection of the rights of witnesses.

(3) The allocation among the television media of the positions of the number of television cameras permitted by a committee or subcommittee chairman in a hearing or meeting room shall be in accordance with fair and equitable procedures devised by the Executive Committee of the Radio and Television Correspondents' Galleries.

(4) Television cameras shall be placed so as not to obstruct in any way the space between any witness giving evidence or testimony and any member of the committee or the visibility of that witness and that member to each other.

(5) Television cameras shall operate from fixed positions but shall not be placed in positions which obstruct unnecessarily the coverage of the hearing or meeting by the other media.

(6) Equipment necessary for coverage by the television and radio media shall not be installed in, or removed from, the hearing or meeting room while the committee is in session.

(7) Floodlights, spotlights, strobelights, and flashguns shall not be used in providing any method of coverage of the hearing or meeting, except that the television media may install additional lighting in the hearing or meeting room, without cost to the Government, in order to raise the ambient lighting level in the hearing or meeting room to the lowest level necessary to provide adequate television coverage of the hearing or meeting at the then current state of the art of television coverage.

§ 724. Press photographers.

(8) In the allocation of the number of still photographers permitted by a committee or subcommittee chairman in a hearing or meeting room, preference shall be given to photographers from Associated Press Photos and United Press International Newspictures. If requests are made by more of the media than will be permitted by a committee or subcommittee chairman for coverage of the hearing or meeting by still photography, that coverage shall be made on the basis of a fair and equitable pool arrangement devised

by the Standing Committee of Press Photographers.

(9) Photographers shall not position themselves, at any time during the course of the hearing or meeting, between the witness table and the members of the committee.

(10) Photographers shall not place themselves in positions which obstruct unnecessarily the coverage of the hearing by the other media.

§ 725. Accreditation

(11) Personnel providing coverage by the television and radio media shall be then currently accredited to the Radio and Television Correspondents' Galleries.

(12) Personnel providing coverage by still photography shall be then currently accredited to the Press Photographers' Gallery.

(13) Personnel providing coverage by the television and radio media and by still photography shall conduct themselves and their coverage activities in an orderly and unobtrusive manner.

The rule permitting broadcasting of committee hearings was contained in section 116(b) of the Legislative Reorganization Act of 1970 (84 Stat. 1140) and became part of the rules on January 22, 1971 (H. Res. 5, 92d Cong., p. 144). On July 22, 1974 (H. Res. 1107, 93d Congress, p. 24447), the rule was amended to permit committees to adopt rules allowing coverage of committee meetings as well as hearings. Subparagraphs (e), (f)(3), (f)(5), and (f)(8) of this clause were amended in the 99th Congress to remove the limit on the number of television cameras (previously four) and press photographers (previously five) covering committee proceedings, and to provide the committee or subcommittee chairman with the discretion to determine the appropriate number (H. Res. 7, Jan. 3, 1985, p. 393).

Privileged Reports and Amendments

§ 726. 4. (a) The following committees shall have leave to report at any time on the matters herein stated, namely: The Committee on Appropriations—on general appropriation bills and on joint resolutions continuing appropriations for a fiscal year if reported after September 15 preceding the beginning of such fiscal year; the Committee on the Budget—on the matters required to be reported by such committee under Titles III and IV of the Congressional Budget Act of 1974; the Committee on House Administration—on enrolled bills, contested elections, and all matters referred to it of printing for the use of the House or the two Houses, and on all matters of expenditure of the contingent fund of the House, and on all matters relating to preservation and availability of noncurrent records of the House under rule XXXVI; the Committee on Rules—on rules, joint rules, and the order of business; and the Committee on Standards of Official Conduct—on resolutions recommending action by the House of Representatives with respect to an individual Member, officer, or employee of the House of Representatives as a result of any investigation by the committee relating to the official conduct of such Member, officer, or employee of the House of Representatives.

The origins of this rule appear as early as 1812, but it was in 1886 that the various provisions were consolidated in one rule. The rule was amended by the Legislative Reorganization Act of 1946 (60 Stat. 812), on February 2, 1951, p. 883, and January 3, 1975 (H. Res. 988, 93d Congress,

p. 34470). On the latter date the privileges given to the Committee on Interior and Insular Affairs on bills for the forfeiture of land grants to railroad and other corporations, preventing speculation in the public lands and reserving public lands for the benefit of actual and bona fide settlers, and for the admission of new States, to the Committee on Public Works on bills authorizing the improvement of rivers and harbors, to the Committee on Veterans' Affairs on general pension bills, and to the Committee on Ways and Means on bills raising revenue, were eliminated from the rule. On January 14, 1975 (H. Res. 5, 94th Congress, p. 20), the rule was further amended to reinsert "contested elections" under the Committee on House Administration's authority, a matter inadvertently omitted from H. Res. 988, 93d Congress. The rule was amended on January 5, 1981 (H. Res. 5, 97th Congress, pp. 98–113) to permit joint resolutions continuing appropriations to be privileged if reported after a certain date. On January 3, 1989 (H. Res. 5, 101st Cong., p. ——), the rule was amended to include under the House Administration Committee's authority all matters relating to preservation and availability of noncurrent House records.

At the time these privileges originated all reports were made on the floor, and often with great difficulty because of the pressure of business (IV, 4621), and by giving this privilege the most important matters of business were greatly expedited. In 1890 a rule was adopted providing that reports should be made by filing with the Clerk, but privileged reports must still be made from the floor (IV, 3146; VIII, 2230). A privileged report from the Committee on Rules may be filed at any time when the House is in session, including during special order speeches (Oct. 14, 1986, p. ———). Prior to the original adoption of the provisions contained in clause 2(l)(6) of the Rule XI on January 22, 1971 (H. Res. 5, 92d Congress, p. 144), the right of reporting at any time was held to give the right of immediate consideration by the House (IV, 3131, 3132, 3142–47; VIII, 2291, 2312). However, from that date until the effective date of the present provisions of clause 2(l)(6) on January 3, 1975 (H. Res. 988, 93d Congress, p. 34470), only the Committees on House Administration, Rules (subject to the two-thirds vote requirement of clause 4(b) of Rule XI), and Standards of Official Conduct could call up a matter in the House for immediate consideration as soon as the report was filed. Now only reports from the Committee on Rules on rules, joint rules, and the order of business, under clause 4(b) of this rule, reports from the Committee on House Administration on committee expense resolutions, under clause 5(a) of this rule, and reports constituting questions of privilege (see generally Deschler's Precedents, ch. 14, § 7.4, fn. 10, discussing a ruling of Speaker Albert, July 13, 1971, on a reported contempt) are exempt from the requirements of clause 2(l)(6) (H. Res. 988, 93d Congress, p. 34470). Other committees enumerated in this clause may still utilize the privilege after the report on the bill or resolution has been available for at least three calendar days (excluding Saturdays, Sundays and legal holidays). Once called up for consideration, the matter so reported remains privileged until disposed of (IV, 3145). The House proceeds to the consideration of privileged questions only on motion directed to be made by the several committees reporting such questions (VIII, 2310). Privileged questions reported adversely have the same status so far as their privilege is concerned as those reported favorably (VI, 413; VIII, 2310).

§ 727. Privileged reports defined.

The matters reported under the provisions of this clause are denominated "privileged reports" or "privileged questions," and since the privilege relates merely to the order of business under the rules, they must be distinguished from "questions of privilege" which relate to the safety or dignity of the House itself defined in Rule IX (III, 2718). Therefore, "questions of privilege" take precedence over these matters which are privileged under the rules (III, 2426–2530; V, 6454; VIII, 3465).

Privileged questions interrupt the regular order of business as established by Rule XXIV, but when they are disposed of it continues on from the point of interruption (IV, 3070, 3071). But the Speaker has declined to allow a call of committees to be interrupted by a privileged report (IV, 3132). The presence of matter not privileged with privileged matter destroys the privileged character of a bill (IV, 4622, 4624, 4633, 4640, 4643; VIII, 2289; Speaker Rayburn, May 21, 1958, pp. 9212–16), or resolution (VIII, 2300), and when the text of a bill contains nonprivileged matter, privilege may not be created by a committee amendment in the nature of a substitute not containing the nonprivileged matter (IV, 4623).

The House may give a committee leave to report at any time only by the process of changing the rules (III, 1770).

§ 728. The privilege of individual committees for reports.

The privilege given by this clause to the Committee on Rules is confined to "action touching rules, joint rules, and order of business" and this committee may not report as privileged a concurrent resolution providing for a Senate investigating committee (VIII, 2255), or provide for the appointment of a clerk (VIII, 2256); but the privilege has been held to include the right to report special orders for the consideration of individual bills or classes of bills (V, 6774), or the consideration of a specified amendment to a bill and prescribing a mode of considering such amendment (VIII, 2258). A special rule providing for the consideration of a bill is not invalidated by the fact that at the time the rule was reported, the bill was not on the Calendar (VIII, 2259; Speaker McCormack, Aug. 19, 1964, pp. 20212–13). The authority to report special orders of business includes authority to recommend consideration of measures and amendments thereto the subject of which might be separately pending before a standing committee (Apr. 15, 1986, p. ———), to make in order the consideration of the text of an introduced bill as original text in a reported bill (Oct. 9, 1986, p. ———), to permit consideration of a previously unnumbered and unsponsored measure which comes into existence by virtue of adoption by the House of the special order (Speaker

O'Neill, Apr. 16, 1986, p. ———), and to recommend a "hereby" resolution, e.g., that a concurrent resolution correcting the enrollment of a bill be considered as adopted by the House upon the adoption of the special order (Speaker Wright, May 4, 1988, p. ——).

The right of the Committee on Appropriations to report at any time is confined strictly to general appropriation bills (IV, 4629–4632; VIII, 2282–2284) and does not include appropriations for specific purposes (VIII, 2285). Before privilege was extended to continuing appropriation bills (in 1981), the rule was not construed to extend to resolutions extending appropriations (VIII, 2282–2284).

Reports from the Committee on House Administration authorizing appropriations from the Treasury directly for compensation of employees (IV, 4645) or fixing the salaries of employees are not privileged (VIII, 2302).

§ 729a. Reports from Committee on Rules.

(b) It shall always be in order to call up for consideration a report from the Committee on Rules on a rule, joint rule, or the order of business (except it shall not be called up for consideration on the same day it is presented to the House, unless so determined by a vote of not less than two-thirds of the Members voting, but this provision shall not apply during the last three days of the session), and, pending the consideration thereof, the Speaker may entertain one motion that the House adjourn; but after the result is announced the Speaker shall not entertain any other dilatory motion until the report shall have been fully disposed of. The Committee on Rules shall not report any rule or order which provides that business under clause 7 of Rule XXIV shall be set aside by a vote of less than two-thirds of the Members present; nor shall it report any rule or order which would prevent the motion to recommit from being made as provided in clause 4 of Rule XVI.

The Committee on Rules, "by uniform practice of the House," exercised the privilege of reporting at any time as early as 1888. The right to report at any time is confined to privileged matters (VIII, 2255). This was probably the survival of a practice which existed as early as 1853 of giving the privilege of reporting at any time to this committee for a session (IV, 4650). In 1890 the committee was included among the committees whose reports were privileged by rule. The present rule was adopted in 1892 (IV, 4621), amended on March 15, 1909, the matter in parentheses was adopted January 18, 1924, pp. 1139, 1141, and effective January 3, 1975 (H. Res. 988, 93d Congress, p. 34470), the rule was further amended to limit its application to reports from the Committee on Rules on rules, joint rules and orders of business.

Pursuant to this clause, a privileged report from the Committee on Rules may be considered on the same legislative day only by a two-thirds vote, but a report properly filed by the committee at any time prior to the convening of the House on the next legislative day may be called up for immediate consideration without the two-thirds requirement (Speaker Albert, July 31, 1975, p. 26243), including a report filed during special order speeches after legislative business on that prior legislative day (Oct. 14, 1986, p.———), and if the House continues in session into a second calendar day and then meets again that day, or convenes for two legislative days on the same calendar day, any report filed on the first legislative day may be called up on the second without the question of consideration being raised (Speaker O'Neill, Dec. 16, 1985, p. 36755; Speaker Wright, Oct. 29, 1987, p. ——). This paragraph does not require that a privileged resolution, and the report thereon, from the Committee on Rules be printed before it is called up for consideration (Speaker O'Neill, Feb. 2, 1977, p. 3344).

In the case of certain resolutions reported from the Committee on Rules, the two-thirds vote requirement for consideration on the same day reported does not apply. Rule XI, clause 2(l)(6) provides for the immediate consideration of a resolution from the Rules Committee waiving the requirement that copies of reports and reported measures be available for three days before their consideration, and Rule XXVIII, clause 2 (a) and (b) provides for the immediate consideration of a resolution from the Rules Committee waiving the requirement that copies of conferences reports or amendments reported from conference in disagreement be available for two hours before their consideration (see Aug. 10, 1984, p. ——).

Although highly privileged, a report from the Committee on Rules yields to questions of privilege (VIII, 3491; Mar. 11, 1987, p.———), and is not in order after the House has voted to go into Committee of the Whole (V, 6781). Also a conference report has precedence of it, even when the yeas and nays and previous question have been ordered (V, 6449). Formerly if a report from the Committee on Rules contained substantive propositions, a separate vote could be had on each proposition (VIII, 2271, 2272, 2274, 3167); but these decisions were nullified by the adoption of the proviso to clause 6 of Rule XVI. A report from the Committee on Rules takes precedence over a motion to consider a measure which is "highly privileged" pursuant to a statute enacted as an exercise in the rulemaking authority of the House, acknowledging the Constitutional authority of the House to change it rules at any time (Speaker Wright, Mar. 11, 1987, p. ———).

The Committee on Rules may report and call up as privileged resolutions temporarily waiving or altering any rule of the House, including statutory provisions enacted as an exercise of the House's rule-making authority which would otherwise prohibit the consideration of a bill being made in order by the resolution. (Speaker Albert, Mar. 20, 1975, p. 7676; Mar. 24, 1975, p. 8418), or which would otherwise establish an exclusive procedure for consideration of a particular type of measure (Speaker O'Neill, Apr. 16, 1986, p. ———; Speaker Wright, Mar. 11, 1987, p. ———). No point of order lies against a resolution reported from the Committee on Rules which waives points of order against a measure or provides special procedures for its consideration, where no law constituting a rule of the House prohibits consideration of such a resolution (resolution providing for consideration of a budget resolution, where a statute, Public Law 96-389, reaffirmed Congressional commitment to balanced Federal budgets but did not dictate what legislation could be considered or otherwise constitute a rule of the House) (June 10, 1982, p. 13353).

§ 729b. Dilatory motions not permitted.

In the later practice it has been held that the question of consideration may not be raised against a report from the Committee on Rules (V, 4961-4963; VIII, 2440, 2441). The clause forbidding dilatory motions has been construed strictly (V, 5740-5742), and the motion to commit after the ordering of the previous question has been excluded in the later practice (V, 5593-5601; VIII, 2270, 2750; Feb. 22, 1984, p. ——), as have appeals and motions to reconsider (V, 5739), and the motion to postpone to a day certain (Oct. 9, 1986, p. ———). In the event that the previous question is rejected on a privileged resolution from the Committee on Rules, the provisions of clause 4(b) prohibiting "dilatory" motions no longer strictly apply; the resolution is subject to amendment, further debate, or a motion to table or refer, and the Member who lead the opposition to the previous question has the prior right to recognition (Oct. 19, 1966, pp. 27713, 27725-29; May 29, 1980, pp. 12667-78), subject to being preempted by a preferential motion offered by another Member (Aug. 13, 1982, pp. 20969, 20975-78).

A motion to recommit a special rule from the Committee on Rules is not in order (VIII, 2270, 2753).

The Committee on Rules may without violating this clause recommend a special order which limits, but does not totally prohibit, a motion to recommit pending passage of a bill or joint resolution, such as precluding the motion from containing instructions relative to certain amendments (Speaker Rainey, Jan. 11, 1934, pp. 479-483). The caveat against including in a special order matter privileged to be reported by another committee (Deschler VI, ch. 21, § 17.13) does not extend to a "hereby" resolution (e.g., that a concurrent resolution correcting the enrollment of a bill within the jurisdiction of another committee be considered as adopted by the House upon the adoption of the special order), so long as not precluding the motion to recommit a bill or joint resolution (Speaker Wright, May 4, 1988, p. ——).

§ 729c. Motions to recommit.

A special rule providing that a House bill with Senate amendments shall be taken from the Speaker's table, Senate amendments disagreed to, conference agreed to, and that the Speaker shall without intervening motion appoint conferees, is not in violation of clause 4(b) of Rule XI, since the motion to recommit may be made on the conference report (VIII, 2266).

But where the provision of the resolution is to ask for a conference, giving the Senate the right of first acting on the conference report, and providing for the appointment of the conferees without intervening motion, such resolution was held in contravention of the rule because it both precluded a motion to commit the Senate amendment before conference and permitted the Senate to act first on the conference report, thereby denying the minority of the House any opportunity of making a motion to recommit (VIII, 2264).

While the Committee on Rules is forbidden to report special orders abrogating the Calendar Wednesday Rule or excluding the motion to recommit after the previous question, a resolution making possible that ultimate result was held in order (VIII, 2267).

§ 730. Filing reports.

(c) The Committee on Rules shall present to the House reports concerning rules, joint rules, and order of business, within three legislative days of the time when the bill or resolution involved is ordered reported by the committee. If any such rule or order is not considered immediately, it shall be referred to the calendar and, if not called up by the Member making the report within seven legislative days thereafter, any member of the Rules Committee may call it up as a question of privilege (but only on the day after the calendar day on which such Member announces to the House his intention to do so) and the Speaker shall recognize any member of the Rules Committee seeking recognition for that purpose. If the Committee on Rules makes an adverse report on any resolution pending before the committee, providing for an order of business for the consideration by the House of any public bill or joint resolution, on days when it shall be in order to call up motions to discharge committees it shall be in order for any Member of the House to call up for consideration by the House such adverse report, and it shall be in order to move the adoption by the House of such resolution adversely reported notwithstanding the adverse report of the Committee on Rules, and the Speaker shall recognize the Member seeking recognition for that purpose as a question of the highest privilege.

Clause 4(c) was initially adopted January 18, 1924, amended December 8, 1931 (VIII, 2268), January 3, 1949, p. 16, January 3, 1951, p. 18, January 4, 1965, p. 24 (inserting the so-called "twenty-one day rule"), January 10, 1967 (H. Res. 7), p. 28 (deleting the "twenty-one day rule" in effect in the 89th Congress), January 3, 1975 (H. Res. 988, 93d Congress, p. 34470). A special order reported from the Committee on Rules and not called up within seven legislative days may be called up by any member of that Committee, including a minority member (Nov. 13, 1979, p. 32185; May 6, 1982, p. 8905). In the 100th Congress, this paragraph was amended to require the member of the Committee on Rules calling up a report after seven legislative days' filing to have given one calendar day notice to the House (H. Res. 5, Jan. 6, 1987, p. ———).

§ 731. Comparative print.

(d) Whenever the Committee on Rules reports a resolution repealing or amending any of the Rules of the House of Representatives or part thereof it shall include in its report or in an accompanying document—

(1) the text of any part of the Rules of the House of Representatives which is proposed to be repealed; and

(2) a comparative print of any part of the resolution making such an amendment and any part of the Rules of the House of Representatives to be amended, showing by an appropriate typographical device the omissions and insertions proposed to be made.

Clause 4(d) was added to the rules effective January 3, 1975 (H. Res. 988, 93d Congress, p. 34470), and is similar to the "Ramseyer Rule" requirements of clause 3, Rule XIII relating to bills and joint resolutions repealing or amending existing law. This clause is applicable to resolutions reported from the Committee on Rules which propose direct permanent repeal or amendment of a rule of the House, but does not apply to resolutions providing temporary waivers of rules during the consideration of particular legislative business (Speaker Albert, Mar. 20, 1975, p. 7676; Mar. 24, 1975, p. 8418).

Clause 4 included a paragraph (e) in the 95th and 96th Congresses relating to the Speaker's authority to postpone further proceedings on reports from the Committee on Rules; such authority was among those consolidated in Rule I, clause 5(b)(1) in the 97th Congress (H. Res. 5, Jan. 5, 1981, pp. 98–113).

Committee Expenses

§ 732a. 5. (a) Whenever any committee, commission or other entity (except the Committee on Appropriations and the Committee on the Budget) is to be granted authorization for the payment, from the contingent fund of the House, of its expenses in any year, other than those expenses to be paid from appropriations provided by statute, such authorization initially shall be procured by one primary expense resolution for the committee, commission or other entity providing funds for the payment of the expenses of the committee, commission or other entity for that year from the contingent fund of the House. Any such primary expense

§732b. Primary expense resolution.

resolution reported to the House shall not be considered in the House unless a printed report on that resolution has been available to the Members of the House for at least one calendar day prior to the consideration of that resolution in the House. Such report shall, for the information of the House—

(1) state the total amount of the funds to be provided to the committee, commission or other entity under the primary expense resolution for all anticipated activities and programs of the committee, commission or other entity; and

(2) to the extent practicable, contain such general statements regarding the estimated foreseeable expenditures for the respective anticipated activities and programs of the committee, commission or other entity as may be appropriate to provide the House with basic estimates with respect to the expenditure generally of the funds to be provided to the committee, commission or other entity under the primary expense resolution.

(b) After the date of adoption by the House of any such primary expense resolution for any such committee, commission or other entity for any year, authorization for the payment from the contingent fund of additional expenses of such committee, commission or other entity in that year, other than those expenses to be paid from appropriations provided by statute, may be procured by one or more supplemental expense resolutions for that

§732c. Additional expense resolution.

committee, commission or other entity as necessary. Any such supplemental expense resolution reported to the House shall not be considered in the House unless a printed report on that resolution has been available to the Members of the House for at least one calendar day prior to the consideration of that resolution in the House. Such report shall, for the information of the House—

(1) state the total amount of additional funds to be provided to the committee, commission or other entity under the supplemental expense resolution and the purpose or purposes for which those additional funds are to be used by the committee, commission or other entity; and

(2) state the reason or reasons for the failure to procure the additional funds for the committee, commission or other entity by means of the primary expense resolution.

(c) The preceding provisions of this clause do not apply to—

(1) any resolution providing for the payment from the contingent fund of the House of sums necessary to pay compensation for staff services performed for, or to pay other expenses of, any committee, commission or other entity at any time from and after the beginning of any year and before the date of adoption by the House of the primary expense resolution providing funds to pay the expenses of that committee, commission of other entity for that year; or

(2) any resolution providing in any Congress, for all of the standing committees of the House, additional office equipment, airmail and special delivery postage stamps, supplies, staff personnel, or any other specific item for the operation of the standing committees, and containing an authorization for the payment from the contingent fund of the House of the expenses of any of the foregoing items provided by that resolution, subject to and until enactment of the provisions of the resolution as permanent law.

§ 732d. Funds for committee staffs: expense resolutions.

(d) From the funds provided for the appointment of committee staff pursuant to primary and additional expense resolutions—

(1) The chairman of each standing subcommittee of a standing committee of the House is authorized to appoint one staff member who shall serve at the pleasure of the subcommittee chairman.

(2) The ranking minority party member of each standing subcommittee on each standing committee of the House is authorized to appoint one staff person who shall serve at the pleasure of the ranking minority party member.

(3) The staff members appointed pursuant to the provisions of subparagraphs (1) and (2) shall be compensated at a rate determined by the subcommittee chairman not to exceed (A) 75 per centum of the maximum established in paragraph (c) of clause 6 or (B) the rate paid

the staff member appointed pursuant to subparagraph (1) of this paragraph.

(4) For the purpose of this paragraph, (A) there shall be no more than six standing subcommittees of each standing committee of the House, except for the Committee on Appropriations, and (B) no member shall appoint more than one person pursuant to the above provisions.

(5) The staff positions made available to the subcommittee chairman and ranking minority party members pursuant to subparagraphs (1) and (2) of this paragraph shall be made available from the staff positions provided under clause 6 of Rule XI unless such staff positions are made available pursuant to a primary or additional expense resolution.

§ 732e. Travel by members not reelected.

(e) No primary expense resolution or additional expense resolution of a committee may provide for the payment or reimbursement of expenses incurred by any member of the committee for travel by the member after the date of the general election of Members in which the Member is not elected to the succeeding Congress, or in the case of a Member who is not a candidate in such general election, the earlier of the date of such general election or the adjournment sine die of the last regular session of the Congress.

(f)(1) For continuance of necessary investigations and studies by—

(A) each standing committee and select committee established by these rules; and

(B) except as provided in subparagraph (2), each select committee established by resolution;

there shall be paid out of the contingent fund of the House such amounts as may be necessary for the period beginning at noon on January 3 and ending at midnight on March 31 of each year.

(2) In the case of the first session of a Congress, amounts shall be made available under this paragraph for a select committee established by resolution in the preceding Congress only if—

(A) a reestablishing resolution for such select committee is introduced in the present Congress; and

(B) no resolution of the preceding Congress provided for termination of funding of investigations and studies by such select committee at or before the end of the preceding Congress.

(3) Each committee receiving amounts under this paragraph shall be entitled, for each month in the period specified in subparagraph (1), to 9 per centum (or such lesser per centum as may be determined by the Committee on House Administration) of the total annualized amount made available under expense resolutions for such committee in the preceding session of Congress.

(4) Payments under this paragraph shall be made on vouchers authorized by the committee involved, signed by the chairman of such committee, except as provided in subparagraph (5), and approved by the Committee on House Administration.

(5) Notwithstanding any provision of law, rule of the House, or other authority, from noon on January 3 of the first session of a Congress, until the election by the House of the committee involved in that Congress, payments under this paragraph shall be made on vouchers signed by—

(A) the chairman of such committee as constituted at the close of the preceding Congress; or

(B) if such chairman is not a Member in the present Congress, the ranking majority party member of such committee as constituted at the close of the preceding Congress who is a Member in the present Congress.

(6)(A) The authority of a committee to incur expenses under this paragraph shall expire upon agreement by the House to a primary expense resolution for such committee.

(B) Amounts made available under this paragraph shall be expended in accordance with regulations prescribed by the Committee on House Administration.

(C) The provisions of this paragraph shall be effective only insofar as not inconsistent with any resolution, reported by the Committee on House

Administration and adopted after the date of adoption of these rules.

This clause (except for paragraphs (d) and (e) and the exemption of the Committee on the Budget) was originally contained in section 110(b) of the Legislative Reorganization Act of 1970 (84 Stat. 1140) and was added to the rules on January 22, 1971 (H. Res. 5, 92d Congress, p. 144). The exception relating to the Committee on the Budget became effective with the enactment of the Congressional Budget Act of 1974 (88 Stat. 297) on July 12, 1974. Effective January 3, 1975 (H. Res. 988, 93d Congress, p. 34470), the authority of all committees to incur expenses, including travel expenses, was made contingent upon adoption by the House of resolutions reported pursuant to this clause (clause 1(b), Rule XI). The clause was amended on January 4, 1977 (H. Res. 5, 95th Cong., pp. 53–70) to extend its applicability to all committees, commissions and entities rather than just to standing committees. The Committee on Appropriations, while not covered by this clause, is reimbursed by funds in appropriation acts for expenses of examinations of estimates of appropriations in the field (31 U.S.C. 22a).

Paragraph (d) was adopted on January 14, 1975 (H. Res. 5, 94th Congress, p. 20) replacing the requirement of H. Res. 988, 93d Congress that the minority party of any such standing committee was entitled, upon request of a majority of such minority, to one-third of the funds provided for the appointment of committee staff pursuant to each primary or additional expense resolution. The requirement of H. Res. 988, 93d Congress had become effective January 3, 1975, and had superseded a provision originally added to the rules on January 22, 1971 (H. Res. 5, 92d Congress, p. 144) which required fair consideration to the minority party of such standing committees in the appointment of committee staff personnel.

Paragraph (e) was adopted on March 2, 1977 (H. Res. 287, 95th Cong., pp. 5933–53).

Subparagraph (f) was added to this clause in the 99th Congress, to provide automatic interim funding for committees at the beginning of a Congress (H. Res. 7, Jan. 3, 1985, p. 393). Resolutions providing such interim funding had been routinely adopted at the convening of Congress before the adoption of this standing authority. In the 100th Congress, subparagraphs f (1) and (2) were amended to make the automatic committee funding mechanism applicable to the first three months of the second session of a Congress, as well as the first session, and to authorize the Committee on House Administration to establish interim funding for any committee at a percentage lower than 9 percent of the total annualized amount (H. Res. 5, Jan. 6, 1987, p. ——).

Committee Staffs

§ 733a.

§ 733b. Professional staff.

6. (a)(1) Subject to subparagraph (2) of this paragraph and paragraph (f) of this clause, each standing committee may appoint, by majority vote of the committee, not more than eighteen professional staff members. Each professional staff member appointed under this subparagraph shall be assigned to the chairman and the ranking minority party member of such committee, as the committee considers advisable.

§ 733c. Minority.

(2) Subject to paragraph (f) of this clause, whenever a majority of the minority party members of a standing committee (except the Committee on Standards of Official Conduct and the Permanent Select Committee on Intelligence) so request, not more than six persons may be selected, by majority vote of the minority party members, for appointment by the committee as professional staff members from among the number authorized by subparagraph (1) of this paragraph. The committee shall appoint any persons so selected whose character and qualifications are acceptable to a majority of the committee. If the committee determines that the character and qualifications of any person so selected are unacceptable to the committee, a majority of the minority party members may select other persons for appointment by the committee to the professional staff until such

appointment is made. Each professional staff member appointed under this subparagraph shall be assigned to such committee business as the minority party members of the committee consider advisable.

§ 733d. (3) The professional staff members of each standing committee—

(A) shall be appointed on a permanent basis, without regard to race, creed, sex, or age, and solely on the basis of fitness to perform the duties of their respective positions;

(B) shall not engage in any work other than committee business; and

(C) shall not be assigned any duties other than those pertaining to committee business.

(4) Services of the professional staff members of each standing committee may be terminated by majority vote of the committee.

(5) The foregoing provisions of this paragraph do not apply to the Committee on Appropriations and to the Committee on the Budget and the provisions of subparagraphs (3)(B) and (C) do not apply to the Committee on Rules.

This clause had its origins in section 202(a) of the Legislative Reorganization Act of 1946 (60 Stat. 812) when not to exceed four non-partisan professionals were allocated to each committee except Appropriations. Section 302(b) of the Legislative Reorganization Act of 1970 (84 Stat. 1140), which became part of the rules on January 22, 1971 (H. Res. 5, 92d Congress, p. 144), increased the authorized professional staff maximum from four to six and added the concept of minority staffing now contained in paragraph (2). Effective January 3, 1975 (H. Res. 988, 93d Congress, p. 34470), the authorized maximum professional staff was increased from six to eighteen, and the minority entitlement from that number was increased from two to six. Also effective on that date, paragraph 3(A) was amended to eliminate the requirement originally contained in the 1946 Legislative Reorganization Act that professionals be appointed without regard to political affiliation, and to add the prohibitions against consideration of race, creed, sex or age in making such appointments. On January 14, 1975 (H. Res. 5, 94th Congress, p. 20), the exemption in paragraph (5) for the Committee on the Budget, which had been included in section 901 of the Congressional Budget Act of 1974 (88 Stat. 330) but then omitted from H. Res. 988, 93d Congress, was reinserted, and the exemption in that paragraph for the Committee on Rules was added in the 101st Congress (H. Res. 5, Jan. 3, 1989, p. ——). Also added in 1975 was the requirement of clause 5(d)(5) of Rule XI that staff positions made available to subcommittee chairmen and ranking minority members pursuant to that clause must be provided from staff positions available under clause 6 unless provided in a primary or additional expense resolution. The Permanent Select Committee on Intelligence was added to the exception in paragraph (2) on March 1, 1983 (H. Res. 58, 98th Congress, p. ——). Additional clerks of committees are authorized by the Committee on House Administration and agreed to by the House.

There is no legal power to fill a vacancy in the clerkship of a committee after one Congress has expired and before the next House has been organized (IV, 4539).

An assault upon the clerk of a committee within the walls of the Capitol was held to be a breach of privilege (II, 1629).

The pay of clerks has been the subject of several decisions (IV, 4536–4538).

§ 734a. Clerical staff.

(b)(1) The clerical staff of each standing committee shall consist of not more than twelve clerks, to be attached to the office of the chairman, to the ranking minority party member, and to the professional staff, as the committee considers advisable. Subject to subparagraph (2) of this paragraph and paragraph (f) of this clause, the clerical staff shall be appointed by majority vote of the committee, without regard to race, creed, sex, or age. Except as provided by subparagraph (2) of this paragraph, the clerical staff shall handle committee correspondence and stenographic work both for the committee staff and for the chairman and the ranking minority party member on matters related to committee work.

§ 734b. Minority.

(2) Subject to paragraph (f) of this clause, whenever a majority of the minority party members of a standing committee (except the Committee on Standards of Official Conduct and the Permanent Select Committee on Intelligence) so request, four persons may be selected, by majority vote of the minority party members, for appointment by the committee to positions on the clerical staff from among the number of clerks authorized by subparagraph (1) of this paragraph. The committee shall appoint to those positions any person so selected whose character and qualifications are acceptable to a majority of the committee. If the committee determines that the character and qualifications of any person so selected are unacceptable to the committee, a majority of the minority party members may select other persons for appointment by the committee to the position involved on the clerical staff until such appointment is made. Each clerk appointed under this subparagraph shall handle committee correspondence and stenographic work for the minority party members of the committee and for any members of the professional staff appointed under subparagraph (2) of paragraph (a) of this clause on matters related to committee work.

(3) Services of the clerical staff members of each standing committee may be terminated by majority vote of the committee.

(4) The foregoing provisions of this paragraph do not apply to the Committee on Appropriations and to the Committee on the Budget.

Clause 6(b) originated in section 202(c) of the Legislative Reorganization Act of 1946 (60 Stat. 812) and was incorporated into the rules on January 3, 1953, p. 24. Section 302(b) of the Legislative Reorganization Act of 1970 (84 Stat. 1140), which became part of the rules on January 22, 1971 (H. Res. 5, 92d Congress, p. 144), retained the 1946 maximum of six clerical employees, but added the concept of minority staffing now contained in paragraph (2) by permitting the minority to select one of the six clerks for minority committee business. Effective January 3, 1975 (H. Res. 988, 93d Congress, p. 34470), the maximum number of clerical employees was increased from six to twelve, and the minority entitlement increased from one to four. The prohibitions against considerations of race, creed, sex or age were also added on that date. On January 14, 1975 (H. Res. 5, 94th Congress, p. 20), the exemption contained in paragraph (4) for the Committee on the Budget which had been included in section 901 of the Congressional Budget Act of 1974 (88 Stat. 330) but omitted from H. Res. 988, 93d Congress, was reinserted. The Permanent Select Committee on Intelligence was added to the exception in paragraph (2) on March 1, 1983 (H. Res. 58, 98th Congress, p. ——).

§ 735. Pay.

(c) Each employee on the professional, clerical and investigating staff of each standing committee shall be entitled to pay at a single gross per annum rate, to be fixed by the chairman, which does not exceed the maximum rate of pay, as in effect from time to time, under applicable provisions of law.

This provision was derived from section 477(c) of the Legislative Reorganization Act of 1970 (84 Stat. 1140) and was incorporated into the rules on January 22, 1971 (H. Res. 5, 92d Congress, p. 144). Effective January 3, 1975 (H. Res. 988, 93d Congress, p. 34470), the maximum salary was set at level V of the Executive Schedule, rather than at the highest rate of basic pay under section 5332(a) of Title V, U.S. Code as specified in the

1970 Reorganization Act, and effective January 4, 1977 (H. Res. 5, 95th Cong., pp. 53–70), the authority for two professional staff to be paid at Level IV of the Executive Schedule was added to the clause. Under section 311 of the Legislative Branch Appropriations Act, 1988, as contained in section 101(i) of Public Law 100-202 (2 U.S.C. § 60a-2a), the maximum salary for staff members is now set by pay order of the Speaker. At the beginning of the 101st Congress, the references in clause 6(c) to particular levels of the executive schedule were deleted (H. Res. 5, Jan. 3, 1989, p. ——).

§ 736. Staff. Committees on Appropriations, and Budget.

(d) Subject to appropriations hereby authorized, the Committee on Appropriations and the Committee on the Budget may appoint such staff, in addition to the clerk thereof and assistants for the minority, as it determines by majority vote to be necessary, such personnel, other than minority assistants, to possess such qualifications as the committee may prescribe.

Clause 6(d) derives from section 202(b) of the Legislative Reorganization Act of 1946 (60 Stat. 812) which was incorporated into the rules on January 3, 1953, p. 24. The inclusion of the Committee on the Budget was first contained in section 901 of the Congressional Budget Act of 1974 (88 Stat. 330) and reinserted into the rule on January 14, 1975 (H. Res. 5, 94th Congress, p. 20) after having been omitted in H. Res. 988, 93d Congress, p. 34470).

§ 737.

(e) No committee shall appoint to its staff any experts or other personnel detailed or assigned from any department or agency of the Government, except with the written permission of the Committee on House Administration.

This clause was contained in section 202(f) of the Legislative Reorganization Act of 1946 (60 Stat. 812) and was incorporated into the rules on January 3, 1953, p. 24.

(f) If a request for the appointment of a minority professional staff member under paragraph (a), or a minority clerical staff member under paragraph (b), is made when no vacancy exists to which that appointment may be made, the committee nevertheless shall appoint, under paragraph (a) or paragraph (b), as applicable, the person selected by the minority and acceptable to the committee. The person so appointed shall serve as an additional member of the professional staff or the clerical staff, as the case may be, of the committee, and shall be paid from the contingent fund, until such a vacancy (other than a vacancy in the position of head of the professional staff, by whatever title designated) occurs, at which time that person shall be deemed to have been appointed to that vacancy. If such vacancy occurs on the professional staff when seven or more persons have been so appointed who are eligible to fill that vacancy, a majority of the minority party members shall designate which of those persons shall fill that vacancy.

(g) Each staff member appointed pursuant to a request by minority party members under paragraph (a) or (b) of this clause, and each staff member appointed to assist minority party members of a committee pursuant to an expense resolution described in paragraph (a) or (b) of clause 5, shall be accorded equitable treatment with respect to the fixing of his or her rate of pay, the assignment to him or her of work facilities, and the accessibility to him or her of committee records.

(h) Paragraphs (a) and (b) of this clause shall not be construed to authorize the appointment of additional professional or clerical staff members of a committee pursuant to a request under either of such paragraphs by the minority party members of that committee if six or more professional staff members or four or more clerical staff members, provided for in paragraph (a)(1) or paragraph (b)(1) of this clause, as the case may be, who are satisfactory to a majority of the minority party members, are otherwise assigned to assist the minority party members.

Paragraphs (f), (g), and (h) of this clause are from section 302(c) of the Legislative Reorganization Act of 1970 (84 Stat. 1140) and were incorporated into the rules on January 22, 1971 (H. Res. 5, 92d Congress, p. 144). Effective January 3, 1975 (H. Res. 988, 93d Congress, p. 34470), conforming changes were made in paragraphs (f) and (h) to reflect increased minority professional and clerical staff permitted to committees under paragraphs (a) and (b) of this clause.

§ 738. Non-partisan staff.

(i) Notwithstanding paragraphs (a)(2) and (b)(2), a committee may employ nonpartisan staff, in lieu of or in addition to committee staff designated exclusively for the majority or minority party, upon an affirmative vote of a majority of the members of the majority party and a majority of the members of the minority party.

Section 202(a) of the Legislative Reorganization Act of 1946 (60 Stat. 812), which was incorporated into the rules on January 3, 1953, p. 24, required committee professional staffs to be appointed on a permanent basis without regard to political affiliation. The concept of minority staffing was added by section 302(b) of the Legislative Reorganization Act of 1970. Effective January 3, 1975 (H. Res. 988, 93d Congress, p. 34470), paragraph (i) was added to permit committees to employ nonpartisan staff upon an affirmative vote of the majority of the members of each party.

§ 739. Reports on staff.

Effective January 4, 1977 (H. Res. 5, 95th Cong., pp. 53–70), former clause 6(j), which was added on Jan. 3, 1953, p. 24, and which was contained in section 134(b) of the Legislative Reorganization Act of 1945, was deleted; that clause required committees to report semiannually to the Clerk, for printing in the Congressional Record, on the names, professions and salaries of committee employees.

RULE XII.

RESIDENT COMMISSIONER FROM PUERTO RICO AND DELEGATE FROM THE DISTRICT OF COLUMBIA.

§ 740. Powers and Privileges of Resident Commissioner and Delegates as to committee service.

1. The Resident Commissioner to the United States from Puerto Rico shall be elected to serve on standing committees in the same manner as Members of the House and shall possess in such committees the same powers and privileges as the other Members.

2. The Delegate from the District of Columbia shall be elected to serve as a member of the Committee on the District of Columbia and each Delegate to the House shall be elected to serve on standing committees of the House in the same manner as Members of the House and shall possess in all committees on which he serves the same powers and privileges as the other Members.

§ 741.

The first form of this rule was adopted in 1871, and it was perfected by amendments in 1876, 1880, 1887, 1892 (II, 1297), and on January 2, 1947 (Legislative Reorganization Act of 1946), August 2, 1949, p. 10618, February 2, 1951, p. 883, and completely revised in the 92d Congress by the adoption of H. Res. 5, January 22, 1971, p. 144. This last revision deleted references to Delegates from the former Territories of Alaska and Hawaii, which had achieved statehood in 1959, and added the Delegate from the District of Columbia, an office established by Public Law 91–405, 84 Stat. 845. The second clause of the rule was again revised in the 93d Congress

(H. Res. 6, Jan. 3, 1973, pp. 26-27) to reflect the establishment of the offices of Delegate from the Territories of Guam and the Virgin Islands (pursuant to Public Law 92-271, 86 Stat. 118). Public Law 95-556 provides that the Territory of American Samoa be represented by a nonvoting Delegate to the House of Representatives, to receive the compensation, allowances and benefits of a Member, to be entitled to the privileges and immunities granted to the Delegate from Guam, and to be first elected at the general Federal election of 1980. Under the present form of the rule, the Delegate from the District of Columbia must be elected as a member of the Committee on the District of Columbia but may be elected to other committees of the House in the same fashion as the other Delegates. All Delegates now have the right to vote in the committees on which they serve. Under an earlier practice, Delegates did not vote in committee (VI, 243); but this had not always been so (II, 1301). Prior to the 94th Congress, a Delegate or the Resident Commissioner could not be appointed as a conferee on bills sent to conference with the Senate (Sept. 18, 1973, p. 30144; July 20, 1973, p. 25201), but Rule X, clause 6(h), which became effective January 3, 1975, provides that the Speaker may appoint the Delegates or the Resident Commissioner to any conference committee considering legislation reported from a committee on which they serve (H. Res. 988, 93d Cong., p. 34470). Clause 6(h) of Rule X was further amended in the 96th Congress (H. Res. 5, Jan. 15, 1979, pp. 7-16) to authorize the Speaker to appoint the Resident Commissioner and Delegates to any select committee; prior to that change they could be appointed to select committees only with the permission of the House (Sept. 21, 1976, p. 31673).

The Resident Commissioner, who under the rules of the 91st and earlier Congresses, was designated as an additional member of the Committees on Agriculture, Armed Services, and Interior and Insular Affairs, is now elected to committees in the same fashion as are other Members and may exercise in those committees on which he serves the same powers as other members, including the right to vote.

The office of Delegate was established by ordinance of the Continental Congress and confirmed by a law of Congress (I, 400, 421). The nature of the office has been the subject of much discussion (I, 400, 403, 473); and except as provided by law (I, 431, 526) the qualifications of the Delegate also have been a matter of discussion (I, 421, 423, 469, 470, 473). A territory or district must be organized by law before the House will admit a Delegate (I, 405, 407, 411, 412).

The law provides that on the floor of the House a Delegate may debate (II, 1290), and he may in debate call a Member to order (II, 1295). He may make any motion which a Member may make except the motion to reconsider (II, 1291, 1292). A Delegate may make a point of order (VI, 240). A Delegate has even moved an impeachment (II, 1303). He may be appointed a teller (II, 1302); but the law forbids him to vote (II, 1290). He has been recognized to object to the consideration of a bill (VI, 241), to a unanimous-consent request to concur in a Senate amendment (June 29, 1984, p. ——), and has made reports for committees (July 1, 1958, p. 12870). The rights and prerogatives of a Delegate in parliamentary matters are not limited to legislation affecting his own territory (VI, 240).

At the organization of the House the Delegates are sworn (I, 400, 401); but the Clerk does not put them on the roll (I, 61, 62).

A Delegate resigns in a communication addressed to the Speaker (II, 1304). He may be arrested and censured for disorderly conduct (II, 1305), but there has been disagreement as to whether he should be expelled by a majority or two-thirds vote (I, 469).

The privileges of the floor with the right to debate were extended to Resident Commissioners in the 60th Congress (VI, 244). Prior to the independence of the Philippines it was represented in the House by Resident Commissioners.

The first form of the rule with reference to the Resident Commissioner was adopted in 1904 (II, 1306). The Act of May 17, 1932, changed the name of Porto Rico to Puerto Rico (48 U.S.C. 731a).

RULE XIII.

CALENDARS AND REPORTS OF COMMITTEES.

§ 712. Calendar for reports of committees.

1. There shall be three calendars to which all business reported from committees shall be referred, viz.:

First. A Calendar of the Committee of the Whole House on the state of the Union, to which shall be referred bills raising revenue, general appropriation bills, and bills of a public character directly or indirectly appropriating money or property.

Second. A House Calendar, to which shall be referred all bills of a public character not raising revenue nor directly or indirectly appropriating money or property.

Third. A Calendar of the Committee of the Whole House, to which shall be referred all bills of a private character.

This clause was adopted in 1880 and amended in 1911 (VI, 742); but as early as 1820 a rule was adopted creating calendars for the Committees of the Whole. Bills not requiring consideration in Committee of the Whole were considered when reported, but in 1880 the House Calendar was created to remedy the delays in making reports caused by such consideration (IV, 3115). Reference of bills to calendars is governed by text of bills as referred to committees and amendments reported by committees are not considered (VIII, 2392).

A motion to correct an error in referring a bill to the proper calendar presents a question of privilege (III, 2614, 2615); but a mere clerical error in the calendar does not give rise to such question (III, 2616). A bill improperly reported is not entitled to a place on the calendar (IV, 3117).

A bill on the wrong calendar may be transferred to the proper calendar as of date of original reference by direction of the Speaker (VI, 744–748; VII, 859; VII, 2406; December 7, 1950, p. 16307; Apr. 26, 1984, p. ——). But the Speaker has no authority to change calendar reference made by the House (VI, 749; VII, 859). Reports from the Court of Claims do not remain on the calendar from Congress to Congress, even when a law seems so to provide (IV, 3298–3302). In determining whether a bill should be placed on the House or Union Calendar, clause 3 of Rule XXIII should be consulted. The Speaker may correct the erroneous referral of a bill as private by referring it to the appropriate (Union) calendar as a public bill when reported (June 1, 1988, p. ——).

Although the Speaker has no general authority—other than to correct the erroneous reference of a reported bill between Calendars—to remove a reported bill from the Union Calendar, he may discharge a bill therefrom for reference to another committee when required (1) by section 401(b) of the Congressional Budget Act of 1974 (Public Law 93-344), mandating 15-day referral to the Committee on Appropriations of reported bills providing new entitlement authority in excess of that allocated to the reporting committee in connection with the most recently agreed to concurrent resolution on the budget (Speaker O'Neill, Sept. 8, 1977, p. 28153), or (2) by clause 5 of Rule X, authorizing and directing the Speaker to assure that each committee has responsibility to consider legislation within its jurisdiction by fashioning sequential referrals where appropriate (Speaker O'Neill, Apr. 27, 1978, p. 11742; June 19, 1986, p. ——).

§ 743. Nonprivileged reports filed with the Clerk.

2. All reports of committees, except as provided in clause 4(a) of Rule XI, together with the views of the minority, shall be delivered to the Clerk for printing and reference to the proper calendar under the direction of the Speaker, in ac-

cordance with the foregoing clause, and the titles or subject thereof shall be entered on the Journal and printed in the Record: *Provided,* That bills reported adversely shall be laid on the table, unless the committee reporting a bill, at the time, or any Member within three days thereafter, shall request its reference to the calendar, when it shall be referred, as provided in clause 1 of this rule.

§ 744. Adverse reports.

A technical amendment changing the reference herein to clause 4(a), Rule XI (relating to privileged reports), was accomplished by H. Res. 988, 93d Congress, p. 34470.

Under the provisions of Rule XI, clause 2(l)(6), a measure or matter may not be called up for consideration until the third calendar day (excluding Saturdays, Sundays, and legal holidays) on which the report thereon has been available to the Members of the House. Clause 7, Rule XXI, places a similar restriction on the consideration of general appropriation bills and adds the requirement that printed hearings on those bills must be available for the same time period. Expense resolutions reported from the Committee on House Administration have a one-day layover under Rule XI, clause 5(a); and reports from the Committee on Rules may be called up when filed subject to the two-thirds vote requirement of Rule XI, clause 4(b), except that under clause 2(l)(6) of Rule XI reports from the Committee on Rules merely waiving the three day availability requirement may be immediately considered and do not require a two-thirds vote.

Unless filed with the report, minority, supplemental or additional views may be presented only with the consent of the House (IV, 4600; VIII, 2231, 2248). See Rule XI, clause 2(l)(5) for the procedure by which such views may be filed as part of the committee report.

A supplemental report to correct a technical error in a committee report may be filed without the consent of the House [Rule XI, clause 2(l)(5)]. It has been held that the fact that a report was not printed as originally made to the House does not prevent the consideration of the matter reported (VIII, 2307). A committee may not file its report on a bill after the House has passed the bill (Sept. 30, 1985, p. 25270).

3. Whenever a committee reports a bill or a joint resolution repealing or amending any statute or part thereof it

§ 745. "Ramseyer Rule."

shall include in its report or in an accompanying document—

(1) The text of the statute or part thereof which is proposed to be repealed; and

(2) A comparative print of that part of the bill or joint resolution making the amendment and of the statute or part thereof proposed to be amended, showing by stricken-through type and italics, parallel columns, or other appropriate typographical devices the omissions and insertions proposed to be made: *Provided, however,* That if a committee reports such a bill or joint resolution with amendments or an amendment in the nature of a substitute for the entire bill, such report shall include a comparative print showing any changes in existing law proposed by the amendments or substitute instead of as in the bill as introduced.

The first part of this paragraph was adopted Jan. 28, 1929 (VIII, 2234), redesignated as subsection (3) Jan. 3, 1953 (p. 24), and the proviso added Sept. 22, 1961 (p. 20823).

Failure of a committee report to comply with the rule may be remedied by a supplemental report (VIII, 2247); and while the filing of such a corrective report formerly required the consent of the House (VIII, 2248), it may now be filed with the Clerk pursuant to Rule XI, clause 2(l)(5). Although a bill proposes but one minor and obvious change in existing law, the failure of the report to indicate the change is in violation of the rule (VIII, 2236). The statute proposed to be amended must be quoted in the report and it is not sufficient that it is incorporated in the bill (VIII, 2238). Under the rule the committee report on a bill amending existing law by the addition of a proviso should quote in full the section immediately preceding the proposed amendment (VIII, 2237). Bills held to be in violation of the rule are automatically recommitted to the respective committees reporting them (VIII, 2237, 2245, 2250). A bill having been recommitted for failure to conform to the rule, further proceedings are de novo and the bill must again be considered and reported by the committee as if no previous report had been made (VIII, 2249). Special orders providing for consideration of bills, unless specifically waiving points of order, do not preclude the point of order that reports on such bills fail to indicate proposed changes in existing law (VIII, 2245). The rule applies to appropriation bills where such bills include legislative provisions (VIII, 2241) and reports on appropriation bills are also subject to the requirements of Rule XXI, clause 3, requiring a concise statement of the effect of any direct or indirect changes in the application of existing law. In order to fall within the purview of the rule the bill must seek to repeal or amend specifically an existing law (VIII, 2235, 2239, 2240). Where the comparative print contained certain errors in punctuation and capitalization and utilized abbreviations not appearing in existing provisions of law, the Speaker held that the committee report was in substantial compliance with the rule and overruled a point of order against the report (July 25, 1966, p. 16842; July 30, 1968, pp. 24252-54). The point of order that a report fails to comply with the rule is properly made when the bill is called up in the House and comes too late after the House has resolved into the Committee of the Whole for its consideration (VIII, 2243-2245).

§ 716. Consent Calendar.

4. After a bill has been favorably reported and shall be upon either the House or Union Calendar any Member may file with the Clerk a notice that he desires such bill placed upon a special calendar to be known as the "Consent Calendar". On the first and third Mondays of each month immediately after the reading of the Journal, the Speaker shall direct the Clerk to call the bills in numerical order, which have been for three legislative days upon the "Consent Calendar". Should objection be made to the consideration of any bill so called it shall be carried over on the calendar without prejudice to the next day when the "Consent Calendar" is again called, and if objected to by three or more Members it shall immediately be stricken from the Calendar, and shall not thereafter during the same session of that Congress be placed again thereon: *Provided,* That no bill shall be called twice on the same legislative day.

This clause was adopted March 15, 1909, amended January 18, 1924; December 7, 1925; December 8, 1931; April 23, 1932 (VII, 972).

Bills must be on the printed calendar three legislative working days in order to be eligible for consideration (VII, 992, 994). One Member having reserved the right to object to the consideration of a bill, any Member may object (VII, 999). Before debate bills can be passed over on the calendar by unanimous consent but after discussion can not be passed over (VII, 996). A bill withdrawn from the Consent Calendar following one objection and, by unanimous consent, recommitted to the reporting committee, is considered de novo when rereported and replaced on the Consent Calendar (Aug. 6, 1962, p. 15609). When a House bill is on the Consent Calendar, by unanimous consent the House committee may be discharged from the consideration of a Senate bill on the same subject, and the Senate bill considered in lieu of the House bill (VII, 1004).

When a bill is made a special order (IV, 3216–3224), or when unanimous consent is given for its consideration (IV, 4823; VIII, 2393), the effect is to discharge the Committee of the Whole and bring the bill before the House itself for its consideration (IV, 3216; VII, 788), and in such event the bill is considered "in the House as in the Committee of the Whole" (VIII, 2393). Debate under such procedure may be had only under the five-minute rule (August 23, 1935, p. 14331; October 13, 1949, p. 14462). The status of bills on the Consent Calendar is not affected by their consideration from another calendar and such bills may be called up for consideration from the Consent Calendar while pending as unfinished business in the House or Committee of the Whole (VII, 1006).

This rule does not preclude the Speaker from recognizing Members to suspend the rules before completion of the Consent Calendar (Decided by House, VIII, 3405; also held by Speaker Clark, Oct. 5, 1914, p. 16182, and by Speaker Gillett, Sept. 4, 1919, p. 5128). Recognition to suspend the rules does not preclude the continuation of the call of the calendar later in the day (VII, 991). The call of the Consent Calendar on days devoted to its consideration takes precedence of the motion to go into the Committee of the Whole to consider revenue or appropriation bills (VII, 986), and a contested-election case may not supplant the call of the Calendar (VII, 988), but the Speaker may recognize a Member to call up a conference report before directing the call of the Consent Calendar (May 4, 1970, pp. 13991-95).

§ 717. Motion to discharge.

5. There shall also be a Calendar of Motions to Discharge Committees, as provided in clause 4 of Rule XXVII.

§ 718a. Calendars printed.

6. Calendars shall be printed daily.

This clause was adopted in the Sixty-second Congress, April 5, 1911 (VI, 743), and amended December 8, 1931, pp. 10, 83.

§ 748b. Estimate of cost.

7. (a) The report accompanying each bill or joint resolution of a public character reported by any committee shall contain—

(1) an estimate, made by such committee, of the costs which would be incurred in carrying out such bill or joint resolution in the fiscal year in which it is reported and in each of the five fiscal years following such fiscal year (or for the authorized duration of any program authorized by such bill or joint resolution, if less than five years), except that, in the case of measures affecting the revenues, such reports shall require only an estimate of the gain or loss in revenues for a one-year period; and

(2) a comparison of the estimate of costs described in subparagraph (1) of this paragraph made by such committee with any estimate of such costs made by any Government agency and submitted to such committee.

(b) It shall not be in order to consider any such bill or joint resolution in the House if the report of the committee which reported that bill or joint resolution does not comply with paragraph (a) of this clause.

(c) For the purposes of subparagraph (2) of paragraph (a) of this clause, a Government agency includes any department, agency, establishment, wholly owned Government corporation, or instrumentality of the Federal Government or the government of the District of Columbia.

(d) The preceding provisions of this clause do not apply to the Committee on Appropriations, the Committee on House Administration, the Committee on Rules, and the Committee on Standards of Official Conduct, and do not apply where a cost estimate and comparison prepared by the Director of the Congressional Budget Office under section 403 of the Congressional Budget Act of 1974 has been timely submitted prior to the filing of the report and included in the report pursuant to clause 2(l)(3)(C) of Rule XI.

This clause was adopted January 22, 1971, p. 144 (H. Res. 5, 92d Cong.), as part of the implementation of the Legislative Reorganization Act of 1970 (84 Stat. 1140, Sec. 252(b)) and was amended on Jan. 4, 1977 (H. Res. 5, 95th Cong., pp. 53–70) to remove references to the Joint Committee on Atomic Energy. Paragraph (d) was amended in the 97th Congress (H. Res. 5, Jan. 5, 1981, pp. 98–113) to render committee cost estimates optional where an estimate by the Congressional Budget Office is included in the report.

RULE XIV.

OF DECORUM AND DEBATE.

§ 719. Obtaining the floor for debate; and relevancy and decorum therein.

1. When any Member desires to speak or deliver any matter to the House, he shall rise and respectfully address himself to "Mr. Speaker", and, on being recognized, may address the House from any place on the floor or from the Clerk's desk, and shall confine himself to the question under debate, avoiding personality. Debate may include references to actions taken by the Senate or by committees thereof which are a matter of public record, references to the pendency or

sponsorship in the Senate of bills, resolutions, and amendments, factual descriptions relating to Senate action or inaction concerning a measure then under debate in the House, and quotations from Senate proceedings on a measure then under debate in the House and which are relevant to the making of legislative history establishing the meaning of that measure, but may not include characterizations of Senate action or inaction, other references to individual Members of the Senate, or other quotations from Senate proceedings.

This clause was adopted in 1880, but was made up, in its main provisions, from older rules, which dated from 1789 and 1811 (V, 4979). The last sentence of the clause, relating to references to the Senate, had its origins in the 100th Congress (H. Res. 5, Jan. 6, 1987, p. ——) but was amended in the 101st Congress (H. Res. 5, Jan. 3, 1989, p. ——) to narrowly expand the range of permissible references. This rule, and rulings of the Chair with respect to references in debate to the Senate, are discussed in § 371, supra.

The Speaker, who has a responsibility under Rule I to maintain and enforce decorum in debate, has reminded and advised Members that (1) clause 1 of Rule XIV requires Members seeking recognition to rise and to address themselves to the question under debate, avoiding personality; (2) Members should address their remarks to the Chair only and not to other entities such as the "press"; (3) Members should not refer to or address any occupant of the galleries; and (4) Members should refer to other Members in debate only in the third person, by state designation (Speaker O'Neill, June 14, 1978, p. 17615; Oct. 2, 1984, p. ——; Mar. 7, 1985, p. 5028); (5) Members should refrain from references in debate to the official conduct of other Members where such conduct is not the subject then pending before the House by way of a report of the Committee on Standards of Official Conduct or as a question of the privilege of the House; and (6) Members should refrain from references in debate to the motivations of Members who file complaints before the Committee on Standards of Official Conduct (Speaker pro tempore Foley, June 15, 1988, p. ——; July 6, 1988, p. ——; Mar. 22, 1989, p. ——; May 2, 1989, p. ——). Although debate on a privileged resolution recommending disciplinary action against a Member may include comparisons with other such actions taken by or reported to the House for purposes of measuring severity of punishment, it is not in order to discuss the conduct of another

Member not the subject of a committee report (Dec. 18, 1987, p. ——). The Chairman of the Committee of the Whole reminded Members that remarks in debate should be addressed to the Chairman, and not to Members or others not present in the Chamber (Apr. 5, 1979, p. 7356), and reminded Members that references to other Members may not be by familiar name but must be in the third person, by state designation (July 21, 1982, pp. 17314, 17315). Even if remarks critical of the Speaker are delivered in debate while he is not occupying the Chair, they should be addressed to "Mr. Speaker" pursuant to this rule (Nov. 1, 1983, p. ——). It is not in order to address remarks to the "television" or to anyone, including Members not present, viewing televised House proceedings, and the Chair enforces this rule on his or her own initiative (Nov. 8, 1979, p. 31519; Sept. 29, 1983, p. ——; Aug. 2, 1984, p. ——; Oct. 9, 1985, p. 26961; June 3, 1987, p. ——; July 23, 1987, p. ——; Dec. 17, 1987, p. ——).

It is a general rule that a motion must be made before a Member may proceed in debate (V, 4984, 4985), and this motion may be required to be reduced to writing (V, 4986). The withdrawal of a motion precludes further debate on it (V, 4989). But sometimes when a communication or a report has been before the House it has been debated before any specific motion has been made in relation to it (V, 4987, 4988). In a few cases, such as conference reports and reports from the Committee of the Whole, the motion to agree is considered as pending without being offered from the floor (IV, 4896; V, 6517).

In presenting a question of personal privilege the Member is not required in the first instance to make a motion or offer a resolution, but such is not the rule in presenting a case involving the privileges of the House (III, 2546, 2547; VI, 565, 566, 580). Personal explanations merely are made by unanimous consent (V, 5065).

A motion must also be stated by the Speaker or read by the Clerk before debate may begin (V, 4982, 4983, 5304).

§ 750. Interruption of a Member in debate.

A Member having the floor may not be taken off his feet by an ordinary motion, even the highly privileged motion to adjourn (V, 5369, 5370; VIII, 2646). He may not be deprived of the floor by a parliamentary inquiry (VIII, 2455–2458), a question of privilege (V, 5002; VIII, 2459), a motion that the committee rise (VIII, 2325), or a demand for the previous question (VIII, 2609), but he may be interrupted for a conference report (V, 6451; VIII, 3294). It is a custom also for the Speaker to request a Member to yield for the reception of a message. A Member may yield the floor for a motion to adjourn or that the Committee of the Whole rise without losing his right to continue when the subject is again continued (V, 5009–5013), but where the House has by resolution vested control of general debate in the Committee of the Whole in designated Members, their control of general debate may not be abrogated by another Member moving to rise, unless they yield for that purpose (May 25, 1967, p. 14121). A Member may also resume his seat while a paper is being read in his time without losing his right to the floor (V, 5015). A Member who, having the floor, moved the previous question was permitted to resume the floor on withdrawing the motion (V, 5474). But a Member may not yield to another Member to offer an amendment without losing the floor (V, 5021, 5030, 5031; VIII, 2476), and a Member may not offer an amendment in time secured for debate only (VIII, 2474), or request unanimous consent to offer an amendment unless yielded to for that purpose by the Member controlling the floor (Sept. 24, 1986, p. ——). A Member recognized under the five-minute rule in the Committee of the Whole may not yield to another Member to offer an amendment, as it is within the power of the Chair to recognize each Member to offer amendments (Apr. 19, 1973, p. 13240; Dec. 12, 1973, p. 41171). A Member desiring to interrupt another in debate should address the Chair for permission of the Member speaking (V, 5006; VI, 193), but the latter may exercise his own discretion as to whether or not he will yield (V, 5007, 5008; VI, 193; VIII, 2463, 2465).

§ 751. Speaker in debate.

The Speaker may of right speak from the Chair on questions of order and be first heard (II, 1367), but with this exception he may speak from the Chair only by leave of the House and on questions of fact (II, 1367–1372). On occasions comparatively rare Speakers have called Members to the Chair and participated in debate on questions of order or matters relating their own conduct or rights, usually without asking consent of the House (II, 1367, 1368, 1371; III, 1950; V, 6097). In more recent years, Speakers have frequently entered into debate on substantive legislative issues before the House for decision, and the right to participate in debate in the Committee of the Whole is without question (see, e.g., Apr. 30, 1987, p. ——).

§ 752. Member must confine himself to the subject.

It has always been held, and generally quite strictly, that in the House the Member must confine himself to the subject under debate (V, 5043–5048; VI, 576; VIII, 2481, 2534). On a motion to amend the debate is confined to the amendment and may not include the general merits of the bill (V, 5049–5051). If a unanimous-consent request for a Member to address the House for one hour for a "special-order" speech specifies the subject of the address, the occupant of the Chair during that speech may enforce the rule of relevancy in debate by requiring that the remarks be confined to the subject so specified (Jan. 23, 1984, p. ——). Debate on a question of personal privilege must be confined to the statements or issue which gave rise to the question of privilege (V, 5075–5077; VI, 576, 608; VIII, 2448, 2481; May 31, 1984, p. ——). Debate on a privileged resolution recommending disciplinary action against a Member, while it may include comparisons with other such actions taken by or reported to the House for purposes of measuring severity of punishment, may not extend to the conduct of another Member not the subject of a committee report (Dec. 18, 1987, p. ——). The question whether a Member should be relieved from committee service is debatable only within very narrow limits (IV, 4510; June 16, 1975, p. 19056).

While the Speakers have entertained appeals from their decisions as to irrelevancy, they have held that such appeals were not debatable (V, 5056-5063).

In Committee of the Whole House on the state of the Union during general debate the Member need not confine himself to the subject (V, 5233-5238; VIII, 2590; June 28, 1974, p. 21743); but this privilege does not extend to the Committee of the Whole House (V, 5239; VIII, 2590). And in all cases the five-minute debate in Committee of the Whole is confined to the subject (V, 5240-5256; VIII, 2591), even on pro forma amendments (VIII, 2591).

§ 753. Speaker's power of recognition.

2. When two or more Members rise at once, the Speaker shall name the Member who is first to speak; * * *

This clause was adopted in 1789 (V, 4978).

In the early history of the House, when business proceeded on presentation by individual Members, the Speaker recognized the Member who arose first; and in case of doubt there was an appeal from his recognition (II, 1429-1434). But as the membership and business of the House increased it became necessary to establish and adhere to a fixed order of business, and recognitions, instead of pertaining to the individual Member, necessarily came to pertain to the bill or other business which would be before the House under the rule regulating the order of business. Hence the necessity that the Speaker should not be compelled to heed the claims of Members as individuals was expressed in 1879 in a report from the Committee on Rules, which declared that "in the nature of the case discretion must be lodged with the presiding officer" (II, 1424). And in 1881 the Speaker declined to entertain an appeal from his decision on a question of recognition (II, 1425-1428), establishing thereby a practice which continues (VI, 292; VIII, 2429, 2646, 2762). It has also been determined that a Member may not invoke Rule XXV (900, infra), providing that questions relating to the priority of business shall be decided by a majority without debate, to inhibit the Speaker's power of recognition under this clause (Speaker Albert, July 31, 1975, p. 26249).

Recognition for one-minute speeches by unanimous consent and the order of such recognition (Nov. 15, 1983, p. ——) is entirely within the discretion of the Speaker; and when the House has a heavy legislative schedule, the Speaker may refuse to recognize Members for that purpose until the completion of legislative business (Procedure ch. 21, sec. 7.5; July 24, 1980, p. 19386), and it is not in order to raise as a question of the privileges of the House a resolution directing the Speaker to recognize for such speeches, since a question of privilege cannot amend or interpret the Rules of the House (July 25, 1980, pp. 19762–4). In the 98th Congress Speaker O'Neill announced a new policy for recognition for one-minute and special-order speeches as follows: (1) alternation of recognition between majority and minority members; (2) recognition first for special-order speeches of five minutes or less, alternating between majority and minority members, in the order in which requests were granted; and (3) final recognition for special-order speeches of between five minutes and one hour, alternating between majority and minority members, in the order in which requests were granted (Speaker O'Neill, Aug. 8, 1984, p. ——). While the Chair's calculation of time consumed under one-minute speeches is not subject to challenge, the Chair endeavors to recognize Majority and then Minority Members by allocating time in a nonpartisan manner (Aug. 4, 1982, p. 19319). Prior to legislative business, the Speaker will traditionally recognize a Member only once by unanimous consent for a "one-minute speech," and will not entertain a second request (May 1, 1985, p. 9995).

§ 751. Speaker governed by usage in recognitions.

Although there is no appeal from the Speaker's recognition, he is not a free agent in determining who is to have the floor. The practice of the House establishes rules from which he may not depart. When the order of business brings before the House a certain bill he must first recognize, for motions for its disposition, the Member who represents the committee which has reported it (II, 1447; VI, 306, 514). This is not necessarily the chairman of the committee, for a chairman who, in committee, has opposed the bill, must yield the prior recognition to a member of his committee who has favored the bill (II, 1449). Usually, however, the chairman has charge of the bill and is entitled at all stages to prior recognition for allowable motions intended to expedite it (II, 1452, 1457; VI, 296, 300). This principle does not, however, apply to the Chairman of the Committee of the Whole (II, 1453). The Member who originally introduces the bill which a committee reports has no claims to recognition as opposed to the claims of the members of the committee, but in cases where a proposition is brought directly before the House by a Member the mover is entitled to prior recognition for motions and debate (II, 1446, 1454; VI, 302–305, 417; VIII, 2454, 3231). And this principle applies to the makers of certain motions. Thus, the Member on whose motion the enacting clause of a bill is stricken out in Committee of the Whole is entitled to prior recognition when the bill is reported to the House (V, 5337; VIII, 2629), and in a case where a Member raised an objection in the joint session to count the electoral vote the Speaker recognized him first when the Houses had separated to consider the objection (III, 1956). But a Member may not, by offering a debatable motion of higher privilege than the pending motion, deprive the Member in charge of the bill of possession of the floor for debate (II, 1460–1463; VI, 290, 297–299; VIII, 2454, 3193, 3197, 3259). The Member in charge of the bill and having the floor may demand the previous question, although another Member may propose to offer a motion of higher privilege (VIII, 2684); but the motion of higher privilege must be put before the previous question (V, 5480; VIII, 2684). The Member who has been recognized to call up a measure in the House has priority of recognition to move the previous question thereon, even over the chairman of the committee reporting that measure (Oct. 1, 1986, p. ——). The fact that a Member has the floor on one matter does not necessarily entitle him to prior recognition on a motion relating to another matter (II, 1464). It is because the Speaker is governed by these usages that he often asks, when a Member seeks recognition, "For what purpose does the gentleman rise?" By this question he determines whether the Member proposes business or a motion which is entitled to precedence and he may deny recognition (VI, 289–291, 293; Aug. 13, 1982 pp. 20969, 20975–78; Speaker Wright, Feb. 17, 1988, p. ——) and from such denial there is no appeal (II, 1425; VI, 292; VIII, 2429, 2646, 2762).

§ 755. Loss of right to recognition by Member in charge.

When an essential motion made by the Member in charge of the bill is decided adversely the right to prior recognition passes to the Member leading the opposition to the motion (II, 1465–1468; VI, 308). The control of the measure passes under this principle when the House disagrees to the recommendation of the committee reporting the bill (II, 1469–1472), when the Committee of the Whole reports a bill adversely (IV, 4897; VIII, 2430), when the motion for the previous question is rejected (VI, 308), subject to the motion of the Member who led the opposition to the previous question being preempted by a motion of higher precedence (Aug. 13, 1982, pp. 20969, 20975–78), and in most cases, when the House refuses to order the previous question on a conference report and then rejects the report (II, 1473–1477; V, 6396). But the mere defeat of an amendment proposed by the Member in charge does not cause right to prior recognition to pass to the opponents (II, 1478, 1479), and the invalidation of a conference report on a point of order, while equivalent to its rejection by the House, does not give the Member raising the question of order the right to the floor (VIII, 3284) and exerts no effect on the right to recognition (VI, 313). Rejection of a conference report after the previous question has been ordered thereon does not cause recognition to pass to a Member opposed to the report, and the manager retains control to offer the initial motion to dispose of amendments in disagreement (Speaker Albert, May 1, 1975, p. 12761).

§ 756. Prior right of Members of the committee to recognition for debate.

In debate the members of the committee—except the Committee of the Whole (II, 1453)—are entitled to priority of recognition for debate (II, 1438, 1448; VI, 306, 307), but a motion to lay a proposition on the table is in order before the Member entitled to prior recognition for debate has begun his remarks (V, 5391–5395; VI, 412; VIII, 2649, 2650).

In recognizing for general debate under general House rules the Chair alternates between those favoring and those opposing the pending matter, preferring members of the committee reporting the bill (II, 1439–1444). When a member of a committee has occupied the floor in favor of a measure the Chair attempts to recognize a Member opposing next, even though he be not a member of the committee (II, 1445). The principle of alternation is not insisted on rigidly where a limited time is controlled by Members, as in the "forty minutes" of debate on motions for suspension of the rules and the previous question (II, 1442).

§ 757. Exceptions to the usages constraining the Speaker as to recognitions.

As to motions to suspend the rules, which are in order on Mondays and Tuesdays of each week, the Speaker exercises a discretion to decline to recognize (V, 6791–6794, 6845; VIII, 3402–3404). He also may decline to recognize a Member who desires to ask unanimous consent to set aside the rules in order to consider a bill not otherwise in order, this being the way of signifying his objection to the request. But this authority does not extend to proceedings under Rule XIII, clause 4. The Speaker has announced a policy of conferring recognition upon Members to call up bills and resolutions which have not been reported by unanimous consent only when assured that the majority and minority floor and committee leadership has no objection (Dec. 15, 1981, p. 31590; May 4, 1982, p. 8613; Nov. 16, 1983, p. ——; Jan. 25, 1984, p. ——; Jan. 26, 1984, p. ——; Jan. 31, 1984, p. ——; Oct. 2, 1984, p. ——; Feb. 4, 1987, p. ——; Jan. 3, 1989, p. ——). "Floor leadership" in this context has been construed to apply only to the Minority Leader and not to the entire hierarchy of minority leadership, where the Chair had been assured that the Minority Leader had been consulted (Apr. 25, 1985, p. 9415). This policy applies to requests to immediately consider matters (separately unreported) comprising a portion of a measure already passed by the House (Dec. 19, 1985, p. 38356), and to requests to consider a motion to suspend the rules and pass an unreported bill (on a non-suspension day) (Aug. 12, 1986, p. ——). With respect to unanimous-consent requests to dispose of Senate amendments to House bills on the Speaker's table, the Chair will entertain such a request only if made by the chairman of the committee with jurisdiction, or by another committee member authorized to make the request (Apr. 26, 1984, p. ——; Feb. 4, 1987, p. ——; Deschler's Precedents ch. 21, sec. 1.23).

§ 758. The hour rule in debate.

2. * * * and no Member shall occupy more than one hour in debate on any question in the House or in committee, except as further provided in this rule.

This clause dates from 1841, when the increase of membership had made it necessary to prevent the making of long speeches which sometimes occupied three or four hours each (V, 4978).

It applies to debate on a question of privilege, as well as to debate on other questions (V, 4990; VIII, 2448); and when the time of debate has been placed within the control of those representing the two sides of a question it must be assigned to Members in accordance with this rule (V, 5004, 5005; VIII, 2462). Under this clause a Member recognized for one hour for a "special order" speech in the House may not extend that time, even by unanimous consent (July 12, 1971, pp. 24594, 24603; Feb. 9, 1966, p. 2794).

§ 759. The opening and closing of debate.

3. The Member reporting the measure under consideration from a committee may open and close, where general debate has been had thereon; and if it shall extend beyond one day, he shall be entitled to one hour to close, notwithstanding he may have used an hour in opening.

This clause was adopted in 1847 and perfected in 1880 (V, 4996).

In the later practice this right to close may not be exercised after the previous question is ordered (V, 4997–5000). This clause applies to general debate in Committee of the Whole (Mar. 26, 1985, p. 6283).

§ 760. The call to order.

4. If any Member, in speaking or otherwise, transgress the rules of the House, the Speaker shall, or any Member may, call him to order; in which case he shall immediately sit down, unless permitted, on motion of another Member, to explain, and the House shall, if appealed to, decide on the case without debate; if the decision is in favor of the Member called to order, he shall be at liberty to proceed, but not otherwise; and, if the case requires it, he shall be liable to censure or such punishment as the House may deem proper.

This clause was adopted in 1789, and amended in 1822 and 1880 (V, 5175).

Members transgressing the rules shall be called to order by the Speaker (VIII, 2481, 2521, 3479) or any Member (II, 1344; V, 5154, 5161-5163, 5175, 5192); and unanimous consent is not required for a Member to withdraw his demand that another Member's words be taken down, prior to a ruling by the Chair (June 18, 1986, p. ——); but except for naming him the Speaker may not otherwise censure or punish him (II, 1345; VI, 237). A Delegate may call a Member to order (II, 1295). It is the duty of the Speaker to call to order a Member who criticizes the actions of the Senate, its Members or committees, in debate or through an insertion in the Record (Speaker Albert, Apr. 17, 1975, p. 10458; Oct. 7, 1975, p. 32055), and the Speaker may deny an offending Member further recognition subject to permission of the House to proceed in order (Speaker O'Neill, June 16, 1982, p. 13843). The Chair may take the initiative to call to order a Member engaging in or tending toward personalities in debate, for example, allegations of unethical conduct by other Members not reported by the Committee on Standards of Official Conduct (June 29, 1987, p. ——); or to call to order a Member engaging in verbal outburst following expiration of his recognition for debate (Mar. 16, 1988, p. ——). Where words are taken down and ruled out of order by the Chair, the motion to strike or expunge the words from the Record has precedence (VIII, 2538-2541; Aug. 21, 1974, pp. 29652-3), and is debatable within narrow limits (VIII, 2539; Speaker Martin, June 12, 1947, p. 6896), but the motion to expunge or strike may not be made in Committee of the Whole (Feb. 18, 1941, p. 1126) and may not be made by the Member called to order (Feb. 11, 1941, pp. 894, 899), although the Member called to order may withdraw his words by unanimous consent (VIII, 2528, 2538, 2543, 2544).

When a Member is called to order under this rule it is the practice to test the opinion of the House by a nondebatable motion "that the gentleman be allowed to proceed in order" (V, 5188, 5189; VIII, 2534). The rule permits a motion that the offending Member be permitted to explain before the Speaker rules on the words taken down, and the Speaker has in his discretion asked for explanation before ruling on the words (Feb. 1, 1940, p. 954). But the Speaker has recognized the offending Member by unanimous consent to explain words ruled out of order (Nov. 10, 1971, pp. 40442-43). A Member called to order and held to be out of order loses the floor (V, 5196-5199) and may not proceed on the same day without the permission of the House (Jan. 29, 1946, p. 533; Aug. 21, 1974, pp. 29652-3), even on yielded time (V, 5147), but this does not prevent the offending Member from exercising his right to vote or to demand the yeas and nays (VIII, 2546).

The House has censured Members for disorderly words (II, 1253, 1254, 1259, 1305; VI, 236).

The display of exhibits, demonstrations, or other unusual adjuncts to debate by way of illustration is subject to the will of the House and any Member may object (VIII, 2452), and where objection is made the question is put to the House without debate (June 21, 1937, p. 6104). Clause 1 of this Rule has been interpreted to proscribe the wearing of badges by Members to communicate a message, since Members must rise and address the Speaker to deliver any matter to the House (Speaker O'Neill, Apr. 15, 1986, p. ——).

§ 761. Words taken down.

5. If a Member is called to order for words spoken in debate, the Member calling him to order shall indicate the words excepted to, and they shall be taken down in writing at the Clerk's desk and read aloud to the House; but he shall not be held to answer, nor be subject to the censure of the House therefor, if further debate or other business has intervened.

This clause was adopted in 1837, with amendment in 1880. But in 1808 the practice of writing down objectionable words had been established, and the rule was adopted to prevent the taking down of words after intervening business (V, 5177; VIII, 2536); but a Member on his feet and requesting recognition at the time, was recognized to demand that words be taken down, although brief debate had intervened, and a request that a Member uttering objectionable words yield does not forfeit the right to demand that the words be taken down (VIII, 2528). The Chair's determination whether a Member's point of order (that remarks just spoken in debate impugn another Member's motives) constitutes a demand that those words be taken down is not such intervening debate or business as to render the demand untimely (Oct. 2, 1984, p. ——).

The words having been read from the desk, the Chair decides whether they are in order (II, 1249; V, 5163, 5169, 5187), and the House may by proper motions under clauses 4 and 5 of this Rule dictate the consequences of the Chair's ruling the words out of order (May 26, 1983, p. ——). When a Member denies that the words taken down are the exact words used by himself, the question as to the words is put to the House for decision (V, 5179, 5180).

When the disorderly words are spoken in the Committee of the Whole, they are taken down as in the House and read at the Clerk's desk, and the Committee rises automatically (VIII, 2533, 2538, 2539) and reports them to the House (II, 1257-1259, 1348). Action in the House on words taken down and reported from Committee of the Whole is limited to the words reported (VIII, 2528); and it is not in order as a question of privilege in the House to propose censure of a Member for disorderly words spoken in Committee of the Whole but not taken down or reported therefrom (V, 5202). Words so taken down may be withdrawn only by unanimous consent (VIII, 2528, 2538, 2540, 2543, 2544). Consideration of words reported to the House from Committee of the Whole having been disposed of, either by decision of the Speaker holding them in order or by action of the House if held unparliamentary, the Committee resumes its sitting without motion (VIII, 2539, 2541).

In certain exceptional cases, as when disorderly words are part of an occurrence constituting a breach of privilege (II, 1657), or when a Member's language has been investigated by a committee (II, 1655), or when he has reiterated on the floor certain published charges (III, 2637), or when he has uttered words alleged to be treasonable (II, 1252), the House has proceeded to censure or other action although business may have intervened.

§ 762. Member to speak but once to the same question.

6. No Member shall speak more than once to the same question without leave of the House, unless he be the mover, proposer, or introducer of the matter pending, in which case he shall be permitted to speak in reply, but not until every Member choosing to speak shall have spoken.

This clause was adopted in 1789, and amended in 1840 (V, 4991).

A Member who has spoken once to the main question may speak again to an amendment (V, 4993, 4994). It is too late to make the point that a Member has spoken already if no one claims the floor until he has made some progress in his speech (V, 4992). For a discussion of the right of a Member to speak more than once under the five-minute rule, see Sec. 873. The right to close may not be exercised after the previous question has been ordered (V, 4997–5000). The right to close does not belong to a Member who has merely moved to reconsider the vote on a bill which he did not report (V, 4995). The right of a contestant in an election case to close when he is permitted to speak in the contest has been a matter of discussion (V, 5001). Ordinarily the manager of a bill or other representative of the committee position and not the proponent of an amendment has the right to close debate on an amendment on which debate has been limited and allocated under the five-minute rule in Committee of the Whole (VIII, 2581; July 16, 1981, p. 16043; Apr. 4, 1984, p. ——; June 5, 1985, p. 14302; July 10, 1985, p. 18496; Oct. 24, 1985, p. 28824; May 2, 1988, p. ——; May 5, 1988, p. ——, p. ——), even including the minority manager representing the committee (June 29, 1984, p. ——; Aug. 14, 1986, p. ——). Under certain circumstances, however, the proponent of the amendment may close debate, as where he represents the reporting committee position (Aug. 14, 1986, p. ——); or where no committee representative opposes the amendment (Aug. 15, 1986, p. ——); or where an unreported measure is being considered and there is no "manager" under the terms of a special rule (Apr. 24, 1985, p. 9206).

§ 763. Decorum of Members in the Hall.

7. While the Speaker is putting a question or addressing the House no Member shall walk out of or across the hall, nor, when a Member is speaking, pass between him and the Chair; and during the session of the House no Member shall wear his hat, or remain by the Clerk's desk during the call of the roll or the counting of ballots, or smoke upon the floor of the House; and the Sergeant-at-Arms and Doorkeeper are charged with the strict enforcement of this clause. Neither shall any person be allowed to smoke upon the floor of the House at any time.

This clause is made up of provisions adopted in 1789, 1837, 1871, and 1896. Originally Members wore their hats during sessions, as in Parliament, and the custom was not abolished until 1837 (II, 1136). In the 96th Congress, the Speaker announced that he considered as proper the customary and traditional attire for Members, including a coat and tie for male Members and appropriate attire for female Members (where thermostat controls had been raised in the summer to conserve energy); the House then adopted a resolution, offered as a question of the privileges of the House, requiring Members to wear proper attire as determined by the Speaker, and denying non-complying Members the privilege of the floor (July 17, 1979, pp. 19008, 19073). In the 97th Congress, the Speaker announced during a vote by electronic device that Members were not permitted under the traditions of the House to wear overcoats on the House floor (Dec. 16, 1981, p. 31847). Smoking is not permitted in Committee of the Whole (Aug. 14, 1986, p. ——). On the opening day of the 101st Congress, the Speaker prefaced his customary announcement of policies concerning such aspects of the legislative process as recognition for unanimous consent requests and privileges of the floor with a general statement concerning decorum in the House, including particular adjurations against engaging in personalities, addressing remarks to spectators, and passing in front of the Member addressing the Chair (Jan. 3, 1989, p. ——).

§ 764. Gallery occupants not to be introduced.

8. It shall not be in order for any Member to introduce to or to bring to the attention of the House during its sessions any occupant in the galleries of the House; nor may the Speaker entertain a request for the suspension of this rule by unanimous consent or otherwise.

This clause was adopted April 10, 1933 (VI, 197).

Rule XV.

ON CALLS OF THE ROLL AND HOUSE.

§ 765. Call of the roll for the yea-and-nay vote.

1. Subject to clause 5 of this Rule, upon every roll call the names of the Members shall be called alphabetically by surname, except when two or more have the same surname, in which case the name of the State shall be added; and if there be two such Members from the same State, the whole name shall be called, and after the roll has been once called, the Clerk shall call in their alphabetical order the names of those not voting. Members appearing after the second call, but before the result is announced, may vote or announce a pair.

The first form of this clause was adopted in 1789, and amendments were added in 1870, 1880, 1890 (V, 6046), January 3, 1969, p. 35 (H. Res. 7, 91st Cong.), and October 13, 1972, p. 36012 (H. Res. 1123, 92d Cong.). The final amendment, which became effective immediately prior to noon on January 3, 1973, introduced the concept and use of the electronic voting system into the provisions of Rule XV.

The names of Members who have not been sworn are not entered on the roll from which the yeas and nays are called for entry on the Journal (V, 6048; VI, 638; VIII, 3122).

Commencing in 1879 the Clerk, in calling the roll, called Members by the surnames with the prefix "Mr." instead of calling the full names (V, 6047), but since the Sixty-second Congress the practice has been discontinued in the interest of brevity (VIII, 3121). The Speaker's name is not on the voting roll and is not ordinarily called (V, 5970). When he votes his name is called at the close of the roll (V, 5965). In case of a tie which is revealed by a correction of the roll, he has voted after intervening business or even on another day (V, 5969, 6061-6063; VIII, 3075). Where the Speaker through an error of the Clerk in reporting the yeas and nays announces a result different from that actually had, the status of the question is governed by the vote as recorded and subsequent announcement by the Speaker of the changed result is authoritative, or he may entertain a motion for correction of the Journal in accordance with the vote as finally ascertained (VIII, 3162).

Under this rule, as under clause 4, Rule XV, the roll is called twice, and those Members appearing after their names are called but before the announcement of the result may vote or announce a pair. Under the former practice, prior to the amendment adopted January 3, 1969, a Member who had failed to respond on either the first or second call of the roll could not be recorded before the announcement of the result (V, 6066-6070; VIII, 3134-3150) unless he "qualified" by declaring that he had been within the Hall, listening, when his name should have been called and failed to hear it (V, 6071-6072; VIII, 3144-3150), and then only on the theory that his name may have been inadvertently omitted by the Clerk (VIII, 3137). Either before announcement of the result (V, 6064) or after such announcement (VIII, 3125), the Speaker may order the vote recapitulated (V, 6049, 6050; VIII, 3128). A Member may not change his vote on recapitulation if the result has been announced (VIII, 3124), but errors in the record of such votes may be corrected (VIII, 3125). A motion that a vote be recapitulated is not privileged (VIII, 3126). The Speaker has declined to order a recapitulation of a vote taken by electronic device (Speaker Albert, July 30, 1975, p. 25841).

The legislative call system was designed to alert Members to certain occurrences on the floor of the House. The Speaker has directed that the bells and lights comprising the system be utilized as follows (January 23, 1979, pp. 701-2):

Tellers—one ring and one light on left.

Recorded vote, yeas and nays, or automatic rollcall vote taken either by electronic system or by use of tellers with ballot cards—two bells and two lights on left indicate a vote in House or in Committee of the Whole by which Members are recorded by name. Bells are repeated five minutes after the first ring. When by unanimous consent waiving the five-minute minimum set by clause 5(b)(3), Rule I, the House authorized the Speaker to put remaining postponed questions to two-minute electronic votes, two bells were rung (Oct. 4, 1988, p. ——).

Recorded vote, yeas and nays, or automatic rollcall electronic vote on recommittal to be immediately followed by possible five-minute vote on final passage (clause 5, Rule XV)—two bells rung at beginning of motion to recommit, followed by five bells, indicate that Chair will order five-minute votes if recorded vote, yeas and nays, or automatic vote is ordered immediately thereafter on final passage or adoption. Two bells repeated five minutes after first ring.

Recorded vote, yeas and nays, or automatic rollcall electronic vote on the first of several amendments reported to the House from the Committee of the Whole (clause 5, Rule XV)—two bells rung at beginning of first amendment on which separate vote is demanded, followed by five bells, indicate that Chair will order five-minute vote if recorded vote, yeas and nays, or automatic vote is ordered on additional amendments on which separate votes have been demanded. Two bells repeated five minutes after first ring. Five bells on each subsequent amendment if rollcall ordered.

Recorded vote, yeas and nays, or automatic rollcall by call of the roll—two bells, followed by a brief pause, then two bells indicate such a vote taken under the provisions of Rule XV, clause 1, by a call of the roll in the House. The bells are repeated when the Clerk reaches the "R's" in the first call of the roll.

Regular quorum call—three bells and three lights on left indicate a quorum call either in the House or in Committee of the Whole by electronic system or by clerks. The bells are repeated five minutes after the first ring. Where quorum call is by call of the roll, three bells followed by a brief pause, then three more bells, with the process repeated when the Clerk reaches the "R's" in the first call of the roll, are utilized.

Regular quorum call in Committee of the Whole, which will possibly be immediately followed by five-minute electronic recorded vote (clause 2, Rule XXIII)—three bells rung at beginning of quorum call, followed by five bells, indicate that Chair will order five-minute vote if recorded vote is ordered on pending question. Three bells repeated five minutes after first ring.

Notice or short quorum call in Committee of the Whole—one long bell followed by three regular bells, and three lights on left, indicate that the Chair has exercised his discretion under clause 2, Rule XXIII and will vacate proceedings when a quorum of the Committee appears. Bells are repeated every five minutes unless (a) the call is vacated by ringing of one long bell and extinguishing of three lights, or (b) the call is converted into a regular quorum call and three regular bells are rung.

Adjournment—four bells and four lights on left.

Any five-minute vote—five bells and five lights on left.

Postponed votes on (a) motions to suspend the rules; (b) final votes on bills, resolutions, or conference reports; or (c) previous question on resolutions from Rules Committee (clause 5(b), Rule I)—two bells, followed by five bells, indicate start of fifteen-minute vote on first postponed question in each such series. Two bells repeated five minutes after first ring. Five bells on all subsequent five-minute votes in each series on which Speaker has reduced vote time.

Recess of the House—six bells and six lights on left.

Civil Defense Warning—twelve bells, sounded at two-second intervals, with six lights illuminated.

[The light on the far right—seven—indicates that the House is in session.]

Failure of the signal bells to announce a vote does not warrant repetition of the roll call (VIII, 3153–3155, 3157) nor does such a failure permit a Member to be recorded following the conclusion of the call (June 9, 1938, p. 8662).

§ 766. Changes and corrections of votes.

Before the result of a vote has been finally and conclusively pronounced by the Chair, but not thereafter, a Member may change his vote (V, 5931–5933, 6093, 6094; VIII, 3070, 3123, 3124, 3160), and a Member who has answered "present" may change it to "yea" or "nay" (V, 6060). But a vote given by a Member may not be withdrawn without leave of the House (V, 5930).

When a vote actually given fails to be recorded during a call of the roll (V, 6061–6063) the Member may, before the approval of the Journal, demand as a matter of right that correction be made (V, 5969; VIII, 3143). But statements of other Members as to alleged errors in a recorded vote must be very definite and positive to justify the Speaker in ordering a change of the roll (V, 6064, 6099). The Speaker declines to entertain requests to correct the Journal and Record on votes taken by electronic device, based upon the technical accuracy of the electronic system if properly utilized and upon the responsibility of each Member to correctly cast and verify his vote (Apr. 18, 1973, p. 13081; May 10, 1973, p. 15282).

§ 767. Interruptions of the roll call.

When once begun the roll call may not be interrupted even by a motion to adjourn (V, 6053; VIII, 3133), a parliamentary inquiry (VIII, 3132), a question of personal privilege (V, 6058, 6059; VI, 554, 564), the arrival of the time fixed for another order of business (V, 6056) or for a recess (V, 6054, 6055; VIII, 3133), or the presentation of a conference report (V, 6443). But it is interrupted for the reception of messages and by the arrival of the hour fixed for adjournment sine die (V, 6715–6718). Incidental questions arising during the roll call, such as the refusal of a Member to vote (V, 5946–5948), are considered after the completion of the call and the announcement of the vote (V, 5947). The rules do not preclude a Member from announcing after a record vote on which he failed to answer, how he would have voted if present (Speaker Rayburn, June 27, 1957, p. 10521; contra VIII, 3151), but neither the rules nor the practice permit a Member to announce after a record vote how absent colleagues would have voted if present (VI, 200; April 3, 1933, p. 1139; April 28, 1933, p. 2587; May 20, 1933, p. 3834; March 16, 1934, pp. 4691, 4700; April 14, 1937, pp. 3489, 3490; April 15, 1937, p. 3563).

§ 768. The call of the House.

2. (a) In the absence of a quorum, fifteen Members, including the Speaker, if there is one, shall be authorized to compel the attendance of absent members; and those for whom no sufficient excuse is made may, by order of a majority of those present, subject to clause 6(e)(2) of this rule, be sent for and arrested, wherever they may be found, by officers to be appointed by the Sergeant-at-Arms for that purpose, and their attendance secured and retained; and the House shall determine upon what condition they shall be discharged. Members who voluntarily appear shall, unless the House otherwise direct, be immediately admitted to the Hall of the House, and they shall report their names to the Clerk to be entered upon the Journal as present.

The essential portions of paragraph (a) of this clause were adopted in 1789 and 1795, with minor amendments in 1888, 1890 (IV, 2982) and January 22, 1971, p. 144 (H. Res. 5, 92d Cong.). By House Resolution 1123, 92d Congress, adopted October 13, 1972, several provisions in Rule XV, including this clause, were amended to reflect the implementation of the electronic voting system. The provisions of clause 2(a) relating to the calling of the roll by the Clerk were deleted. Calls of the House are now taken by the electronic device unless the Speaker, in his discretion (see clause 5) orders the use of the alternative procedure in clause 2(b). Together with clause 6(e)(2) of this rule, this paragraph was further amended in the 96th Congress (H. Res. 5, Jan. 15, 1979, pp. 7-16) to conform to the requirement in that provision that further proceedings under the call shall be dispensed with unless the Speaker in his discretion recognizes for a call of the House or a motion to compel attendance under this paragraph.

§ 769. Ordering and conducting the call.

Under this rule a call may not be ordered by less than 15, and without that number present the motion for a call is not entertained (IV, 2983). It must be ordered by majority vote, and a minority of 15 or more favoring a call on such vote is not sufficient (IV, 2984). A quorum not being present no motion is in order but for a call of the House or to adjourn (IV, 2950, 2988; VI, 680), and at this stage the motion to adjourn has precedence over the motion for a call of the House (VIII, 2642).

While the following precedents predate the use of the electronic voting and recording system, they are retained in the Manual because of their general applicability with respect to calls of the House. A roll call under paragraph (a) may not be interrupted by a motion to dispense with further proceedings under the call (IV, 2992), and a recapitulation of the names of those who appear after their names have been called may not be demanded (IV, 2933). But during proceedings under the call the roll may be ordered to be called again by those present (IV, 2991).

During a call less than a quorum may revoke leaves of absence (IV, 3003, 3004) and excuse a Member from attendance (IV, 3000, 3001), but may not grant leaves of absence (IV, 3002). The roll is sometimes called for excuses, and motions to excuse are in order during this call (IV, 2997), but neither the motion to excuse nor an incidental appeal are debatable (IV, 2999). After the roll has been called for excuses, and the House has ordered the arrest of those who are unexcused, a motion to excuse an absentee is in order when he is brought to the bar (IV, 3012).

§770. Arrest of Members.

An order of arrest for absent Members may be made after a single-calling of the roll (IV, 3015, 3016), and a warrant issues on direction of those present, such motion having precedence of a motion to dispense with proceedings under the call (IV, 3036). The Sergeant-at-Arms is required to arrest Members wherever they may be found (IV, 3017), and leave for a committee to sit during sessions does not release its Members from liability to arrest (IV, 3020). A motion to require the Sergeant-at-Arms to report progress in securing a quorum is in order during a call of the House (VI, 687). A Member who appears and answers is not subject to arrest (IV, 3019), and in a case where a Member complained of wrongful arrest the House ordered the Sergeant-at-Arms to investigate and amend the return of his warrant (IV, 3021). A Member once arrested having escaped it was held that he might not be brought back on the same warrant (IV, 3022). A privileged motion to compel the attendance of absent Members is in order after the Chair has announced that a quorum has not responded on a negative record vote on a motion to adjourn (Nov. 2, 1987, p. ——).

The former practice of presenting Members at the bar during a call of the House (IV, 3030–3035) is obsolete, and Members now report to the Clerk and are recorded without being formally excused unless brought in under compulsion (VI, 684). Those present on a call may prescribe a fine as a condition of discharge, and the House has by resolution revoked all leaves of absence and directed the Sergeant-at-Arms to deduct from the salary of Members compensation for days absent without leave (VI, 30, 198), but this penalty has been of rare occurrence (IV, 3013, 3014, 3025). Form of resolution for the arrest of Members absent without leave (VI, 686). Having rejected a motion to adjourn, less than a quorum of the House rejected a motion directing the Sergeant-at-Arms to arrest absent Members, rejected a second motion to adjourn, and then adopted a motion authorizing the Speaker to compel the attendance of absent members (Nov. 2, 1987, p. ——).

The motion to dispense with further proceedings under the call of the House is not in order when a motion to arrest absent Members is pending (IV, 3029, 3037); is not entertained until a quorum responds on the call, but may be agreed to by less than a quorum thereafter (IV, 3038, 3040; VI, 689; Sept. 11, 1968, p. 26453; Dec. 22, 1970, p. 43311); is neither debatable nor subject to amendment, thus the motion to lay it on the table is not in order (Aug. 27, 1962, p. 17653; Dec. 18, 1970, pp. 42504-5).

§771a. Motions during a call.

During the call, which in later practice has been invoked only in absence of a quorum, incidental motions may be agreed to by less than a quorum (IV, 2994, 3029; VI, 681) and under clause 6(a)(4), Rule XV, a point of order of no quorum may not be made during the offering, consideration, and disposition of any motion incidental to a call of the House. This includes motions for the previous question (V, 5458), to reconsider and to lay the motion to reconsider on the table (V, 5607, 5608), to adjourn, which is in order even in the midst of the call of the roll for excuses (IV, 2998) or while the House is dividing on a motion for a call of the House (VIII, 2644), and which takes precedence over a motion to dispense with further proceedings under the call (VIII, 2643), and an appeal from a decision of the Chair (IV, 3010, 3037; VI, 681). The yeas and nays may also be ordered (IV, 3010), but a question of privilege may not be raised unless it be something connected immedidately with the proceedings (III, 2545). Motions not strictly incidental to the call are not admitted, as for a recess (IV, 2995, 2996), to excuse a Member from voting even when otherwise in order (IV, 3007), to enforce the statute relating to deductions of pay of Members for absence (IV, 3011; VI, 682), to construe a rule or make a new rule (IV, 3008), or to order a change of a Journal record (IV, 3009). A motion for a call of the House is not debatable (VI, 683, 688). The motion to compel the attendance of absent Members, being neither debatable nor amendable, is not subject to a motion to lay on the table (Speaker Wright, Nov. 2, 1987, p. ——).

§771b. Quorum call by clerks.

(b) Subject to clause 5 of this Rule, when a call of the House in the absence of a quorum is ordered, the Speaker shall name one or more clerks to tell the Members who are present. The names of those present shall be recorded by such clerks, and shall be entered in the Journal and the absentees noted, but the doors shall not be closed except when so ordered by the Speaker. Members shall have not less than fifteen minutes from the ordering of a call of the House to have their presence recorded.

This paragraph was adopted as part of the general revision of Rule XV which was required by the implementation of the electronic voting system (H. Res. 1123, 92d Cong., Oct. 13, 1972, p. 36012). The Speaker, in his discretion, may direct that the presence of Members be recorded by this procedure in lieu of using the electronic system, or the Chair may, in his discretion, direct that a quorum call be taken by an alphabetical call of the roll (Mar. 7, 1973, p. 6699). The Chairman of the Committee of the Whole also may direct that a quorum call be conducted by depositing quorum tally cards with clerk tellers, rather than by electronic device or a call of the roll (July 13, 1983, p. ——).

§772. Count of those not voting to make a quorum of record on a roll call.

3. On the demand of any Member, or at the suggestion of the Speaker, the names of Members sufficient to make a quorum in the Hall of the House who do not vote shall be noted by the Clerk and recorded in the Journal, and reported to the Speaker with the names of the Members voting, and be counted and announced in determining the presence of a quorum to do business.

This clause was adopted in 1890 (IV, 2905), but it merely formalized a principle already established by a decision of the Chair (IV, 2895). It was much in use in the first years after its adoption (III, 2620; IV, 2905-2907); but with the decline of obstruction in the House and the adoption of clause 4 of this rule the necessity for its use has disappeared to a large extent. The Speaker may direct the Clerk to note names of Members under this rule even on a vote for which a quorum is not necessary (VIII, 3152).

§773. The call of the House in the new form.

4. Subject to clause 5 of this Rule, whenever a quorum fails to vote on any question, and a quorum is not present and objection is made for that

cause, unless the House shall adjourn there shall be a call of the House, and the Sergeant-at-Arms shall forthwith proceed to bring in absent Members, and the yeas and nays on the pending question shall at the same time be considered as ordered. The Clerk shall call the roll, and each Member as he answers to his name may vote on the pending question, and, after the roll call is completed, each Member arrested shall be brought by the Sergeant-at-Arms before the House, whereupon he shall be noted as present, discharged from arrest, and given an opportunity to vote and his vote shall be recorded. If those voting on the question and those who are present and decline to vote shall together make a majority of the House, the Speaker shall declare that a quorum is constituted, and the pending question shall be decided as the majority of those voting shall appear. And thereupon further proceedings under the call shall be considered as dispensed with. At any time after the roll call has been completed, the Speaker may entertain a motion to adjourn, if seconded by a majority of those present, to be ascertained by actual count by the Speaker; and if the House adjourns, all proceedings under this section shall be vacated.

This clause was adopted in 1896 (IV, 3041; VI, 690); and amended in 1972 to make its provisions subject to clause 5 of this Rule (H. Res. 1123, 92d Cong., p. 36012). Where objection is raised to a vote in the House on the ground that a quorum is not present, and a quorum is in fact not present, the Speaker may direct that the call of the House be taken by electronic device under clause 5, or may, in his discretion, direct the Clerk to call the roll pursuant to this clause (May 16, 1973, p. 15860).

It applies only to votes wherein a quorum is required, and hence does not apply to an affirmative vote on a motion to adjourn (July 25, 1949, p. 10092; Nov. 4, 1983 p. ——), or motions incidental to a call of the House which may be agreed to by less than a quorum (IV, 2994, 3029; VI, 681), or to a call when there is no question pending (IV, 2990). While a quorum is not required to adjourn, a point of no quorum on a negative vote on adjournment, if sustained, precipitates a call of the House under the rule (VI, 700; June 4, 1951, pp. 6097, 6098; June 15, 1951, p. 6621). Where less than a quorum rejects a motion to adjourn, the House may not consider business but may dispose of motions to compel the attendance of absent Members (Nov. 2, 1987, p. ——).

When a Member objects to a vote on the ground that a quorum is not present and makes the point of order under this clause, the Speaker may count the House and determine the presence of a quorum, and is not required to announce his actual count under the first sentence of this clause (Sept. 30, 1981, p. 22456). Where the Speaker ascertains the presence of a quorum by actual count following an objection to a vote under this clause, or on a rejected demand for the yeas and nays and a division vote is then had on the pending question, the division vote is intervening business (see VIII, 2804) permitting another objection to the lack of a quorum, and the Speaker must again count the House (Mar. 17, 1976, p. 6792; Aug. 2, 1979, p. 22006). But where the announced absence of a quorum has resulted in a rollcall vote under this clause (on the Speaker's approval of the Journal), the House may not, even by unanimous consent, vacate the vote in order to conduct another voice vote in lieu of the rollcall vote, since no business, including a unanimous-consent agreement, is in order in the announced absence of a quorum (July 13, 1983, p. ——; Feb. 24, 1988, p. ——). The House having authorized the Speaker to compel the attendance of absent Members, the Speaker announced that the Sergeant-at-Arms would proceed with necessary and efficacious steps, and that pending the establishment of a quorum no further business, including unanimous consent requests for recess authority, could be entertained (Nov. 2, 1987, p. ——).

§ 774a. Conduct of the call in the new form.

Under this clause the roll is called over twice, and those appearing after their names are called may vote (IV, 3052). A motion to adjourn may be made before the call begins (IV, 3050). After the roll has been called, and while the proceedings to obtain a quorum are going on, motions to excuse Members are in order (IV, 3051). The Sergeant-at-Arms is required to detain those who are present and bring in absentees (IV, 3045–3048), and he does this without the authority of a resolution adopted by those present (IV, 3049). There is doubt as to whether or not a warrant is necessary but it is customary for the Speaker to issue one on the authority of the rule (IV, 3043; VI, 702). When arrested, Members are arraigned at the bar, and either vote or are noted as present, after which they are discharged (IV, 3044). When a quorum fails to vote on a yea-and-nay vote on a motion which requires a quorum to be present, and a quorum is not present, the Chair takes notice of the fact, and unless the House adjourns, a call of the House is ordered by the Chair under this rule, and the vote is taken on the question de novo (IV, 3045, 3052; VI, 679). An automatic roll call results under this rule when the objection that a quorum is not present and voting is made after a viva voice vote (VI, 697). An automatic roll call under this rule is not in order in Committee of the Whole (Aug. 2, 1966, p. 17844). Pursuant to clause 5(b), Rule I, where the Speaker has announced that he will postpone further proceedings on motions to suspend the rules on that day if any votes are objected to under clause 4, Rule XV, and objection is then made to any such votes under that clause, further proceedings are automatically postponed and the question is put de novo when that vote recurs as unfinished business, when further proceedings are postponed, the point of order that a quorum is not present is considered as withdrawn, since no longer in order (a question not being pending after the Speaker's announcement of postponement). See clause 6(e)(1), Rule XV, infra.

§ 771b. Use of electronic equipment in recording roll calls.

5. Unless, in his discretion, the Speaker orders the calling of the names of Members in the manner provided for under the preceding provisions of this rule, upon any roll call or quorum call the names of such Members voting or present shall be recorded by electronic device. In any such case, the Clerk shall enter in the Journal and publish in the Congressional Record, in alphabetical order in each category, a list of names of those Members recorded as voting in the affirmative, of those Members recorded as voting in the negative, and of those Members answering present, as the case may be, as if their names had been called in the manner provided for under such preceding provisions. Members shall have not less than fifteen minutes from the ordering of the roll call or quorum call to have their vote or presence recorded. The Speaker may, in his discretion, announce after a roll call

vote has been ordered on an amendment reported from the Committee of the Whole House on the state of the Union, that he may reduce to not less than five minutes the period of time in which a roll call vote, if ordered, will be taken by electronic device on any other subsequent amendment to that bill or resolution reported from the Committee of the Whole. In like manner, the Speaker may, in his discretion, announce after a roll call vote has been ordered on a motion to recommit a bill, resolution or conference report thereon, that he may reduce to not less than five minutes the period of time in which a roll call vote, if ordered, will be taken by electronic device on the question of passage or adoption, as the case may be, on such bill, resolution or conference report thereon if the question on final passage or adoption follows without intervening business the vote on the question of recommittal.

The permissive use of an electronic voting system was incorporated in the Legislative Reorganization Act of 1970 (84 Stat. 1140, Sec. 121) and was made a part of the standing rules on January 22, 1971, p. 144 (H. Res. 5, 92d Cong.). The clause in its present form, except for the last two sentences, was adopted on October 13, 1972, p. 36012 (H. Res. 1123, 92d Cong.). The electronic system was first utilized in the House on January 23, 1973, p. 1793.

The Speaker inserted in the Record a detailed statement describing procedures to be followed during votes and quorum calls by electronic device and by the back-up procedures therefor (Jan. 15, 1973, pp. 1054–57). The Speaker may direct that a call of the House be conducted by an alphabetical call of the roll by the Clerk where, in his discretion, he does not utilize the electronic voting device (Mar. 7, 1973, p. 6699), and pursuant to clauses 4 and 5 of Rule XV the Speaker may, in his discretion, direct the Clerk to call the roll, in lieu of taking the vote by electronic device, where a quorum fails to vote on any question and objection is made for that reason (May 16, 1973, p. 15850). The Speaker declines to entertain unanimous consent requests to correct the Journal and Record on votes taken by electronic device (Apr. 18, 1973, p. 13081; May 10, 1973, p. 15282; June 17, 1986, p. ——), but the Speaker may announce a change in the result of a vote taken by electronic device where required to correct an error in identifying a signature on a voting card submitted in the well (June 11, 1981). On a call of the House conducted by electronic device, Members are permitted a minimum of 15 minutes to respond, but it is within the discretion of the Chair, following the expiration of 15 minutes, to allow additional time for Members to record their presence before announcing the result (June 6, 1973, p. 18403), and since this clause is incorporated by reference into clause 2, Rule XXIII, the Chairman of the Committee of the Whole need not convert to a regular quorum call precisely at the expiration of 15 minutes if 100 Members have not appeared on a notice quorum call, but he may continue to exercise his discretion under clause 2, Rule XXIII at any time during the conduct of the call (July 17, 1974, p. 23673). Since the Chair has the discretion to close the vote and to announce the result at any time after 15 minutes have elapsed, those precedents guaranteeing Members in the chamber the right to have their votes recorded even if the Chair has announced the result (i.e. V, 6064, 6065; VIII, 2143), which predate the use of an electronic voting system, do not require the Chair to hold open indefinitely a vote taken by electronic device (Speaker pro tempore Meeds, Mar. 14, 1978, pp. 6838–9). After the expiration of the 15-minute minimum time on a recorded vote and the closing of electronic voting stations, but before the Speaker's announcement of the result, any Member may either change his vote or cast an initial vote from the well by means of a ballot card (Speaker Albert, Sept. 23, 1975, p. 29850-1; Speaker Wright, Oct. 29, 1987, p. ——). The Speaker announced in the 94th Congress that effective September 22, 1975, Members could no longer change their votes at the voting stations during a recorded vote taken by electronic device but would be required to announce the change from the well and submit to the tally clerk a vote change card (Speaker Albert, Sept. 17, 1975, p. 28903). Subsequently in the 94th Congress the Speaker announced a further modification of that procedure to permit Members to change their votes electronically during the first 10 minutes of the 15-minute voting period, but requiring changes during the last 5 minutes to be announced from the well by submission of a voting change card (Speaker Albert, Mar. 22, 1976, p. 7394). In the 95th Congress, the Speaker announced a further modification: that during any votes reduced to five minutes by the Chair under the rules, Members could change their votes from voting stations at any time (Speaker O'Neill, Jan. 4, 1977, pp. 53–70). The last sentence was first added to the clause in the 96th Congress (H. Res. 5, Jan. 15, 1979, pp. 7–16) to permit the Speaker to reduce to five minutes the vote on final passage immediately following a fifteen-minute record vote on a motion to recommit. The penultimate sentence was added in the 101st Congress (H. Res. 5, Jan. 3, 1989, p. ——) to permit the Speaker to reduce to five minutes any roll call votes on amendments reported to the House from Committee of the Whole after a 15-minute vote on the first of such amendments. Five-minute votes, at the Chair's discretion, are now permitted: (1) under this clause on subsequent amendments in a series of amendments reported from the Committee of the Whole and on final passage immediately following a fifteen-minute rollcall vote on recommittal; (2) immediately following a regular quorum call in Committee of the Whole (clause 2, Rule XXIII); and (3) where the Chair "clusters" votes after the first fifteen-minute vote on the question of passing bills, the question of adopting resolutions, the question of ordering the previous question on privileged resolutions reported from the Committee on Rules, the question of agreeing to conference reports, and the question of agreeing to motions to suspend the rules (clause 5(b), Rule I). The Speaker has the discretion to continue to utilize the electronic system, even though the electronic display panels are temporarily inoperative, where the voting stations continue in operation and Members are able to verify their votes, or to utilize a backup voting procedure, such as calling the roll, where voting stations are inoperative (Speaker O'Neill, Sept. 19, 1985, p. 24245).

6. (a) It shall not be in order to make or entertain a point of order that a quorum is not present—

§ 774c. Quorum: when not required.

(1) before or during the offering of prayer;

(2) during the administration of the oath of office to the Speaker or Speaker pro tempore or a Member, Delegate, or Resident Commissioner;

(3) during the reception of any message from the President of the United States or the United States Senate; and

(4) during the offering, consideration, and disposition of any motion incidental to a call of the House.

(b) A quorum shall not be required in Committee of the Whole for agreement to a motion that the Committee rise.

(c) After the presence of a quorum is once ascertained on any day on which the House is meeting, a point of order of no quorum may not be made or entertained—

(1) during the reading of the Journal;

(2) during the period after a Committee of the Whole has risen after completing its consideration of a bill or resolution and before the Chairman of the Committee has reported the bill or resolution back to the House; and

(3) during any period of a legislative day when the Speaker is recognizing Members (including a Delegate or Resident Commissioner) to address the House under special orders, with no measure or matter then under consideration for disposition by the House.

(d) When the presence of a quorum is ascertained, a further point of order that a quorum is not present may not thereafter be made or entertained until additional business intervenes. For purposes of this paragraph, the term "business" does not include any matter, proceeding, or period referred to in paragraph (a), (b), or (c) of this clause for which a quorum is not required or a point of order of no quorum may not be made or entertained.

(e)(1) Except as provided by subparagraph (2), it shall not be in order to make or entertain a point of order that a quorum is not present unless the Speaker has put the pending motion or proposition to a vote.

(2) Notwithstanding subparagraph (1), it shall always be in order for a Member to move a call of the House when recognized for that purpose by the Speaker, and when a quorum

has been established pursuant to a call of the House, further proceedings under the call shall be considered as dispensed with unless the Speaker, in his discretion, recognizes for a motion under clause 2(a) of this rule or for a motion to dispense with further proceedings under the call.

Paragraphs (a) through (d) were added on April 9, 1974 (H. Res. 998, 93d Cong., pp. 10195-99) and paragraph (e) on January 4, 1977 (H. Res. 5, 95th Cong., pp. 53-70).

Under clause 6(e)(1), the Speaker may not entertain a point of order of no quorum when he has not put a question to a vote in the House (Speaker O'Neill, Jan. 11, 1977, p. 891; Jan. 31, 1977, p. 2640). The Chair may not entertain a point of order of no quorum pending a request that a committee be permitted to sit under the five-minute rule, since the Chair has not put the question on a pending proposition to a vote (June 18, 1980, pp. 15316-7). But under clause 6(e)(2) the Speaker may at any time in his discretion recognize a Member of his choice to move a call of the House (Speaker O'Neill, Jan. 19, 1977, p. 1719; Jan. 31, 1977, p. 2640; Aug. 6, 1986, p. ——) even, for example, prior to the call of the Private Calendar, which under Rule XXIV clause 6 is in order after approval of the Journal and disposition of business on the Speaker's table (July 8, 1987, p. ——). Clause 6(e)(2) was amended in the 96th Congress (H. Res. 5, Jan. 15, 1979, pp. 7-16) to dispense with further proceedings under any call of the House when a quorum appears unless the Speaker at his discretion recognizes for a motion.

The Speaker's refusal to entertain a point of order of no quorum when a pending question has not been put to a vote is not subject to an appeal, since the clause contains an absolute and unambiguous prohibition against entertaining such a point of order (Sept. 16, 1977, pp. 29562-3). During debate on a measure in the House the Speaker will not respond to an inquiry as to the number of Members present in the Chamber, since a point of no quorum is not admissible unless he has put the pending question to a vote (Oct. 28, 1987, p. ——).

In adopting this rule, the House has presumably determined that the mere conduct of debate in the House, where the Chair has not put the pending motion or proposition to a vote, is not such business as requires a quorum under U.S. Const. Art. I, sec. 5, clause 1, and neither a point of order of no quorum during debate only nor a point of order against the enforcement of this clause lies independently under the Constitution (Sept. 8, 1977, p. 28114; Sept. 12, 1977, pp. 28800-1; Feb. 27, 1986, p. ——). See also clause 2, Rule XVII, providing that after the previous question is ordered a call of the House shall only be in order if the Speaker determines by actual count of the House that a quorum is not present.

RULE XVI.

ON MOTIONS, THEIR PRECEDENCE, ETC.

§ 775. Motions reduced to writing and entered on the Journal.

1. Every motion made to the House and entertained by the Speaker shall be reduced to writing on the demand of any Member, and shall be entered on the Journal with the name of the Member making it, unless it is withdrawn the same day.

This clause was made up in 1880 of old rules adopted in 1789 and 1806 (V, 5300).

Because of this rule it has been held not in order to amend or strike out a Journal entry setting forth a motion exactly as made (IV, 2783, 2789). A motion not entertained is not entered on the Journal (IV, 2813, 2844–2846). See Sec. 71, *supra,* for discussion of Journal entries. Pursuant to this clause, the Chair may demand that a Member's motion be reduced to writing and in the proper form (July 24, 1986, p. ——).

§ 776. Stating and withdrawing of motions.

2. When a motion has been made, the Speaker shall state it or (if it be in writing) cause it to be read aloud by the Clerk before being debated, and it shall then be in possession of the House, but may be withdrawn at any time before a decision or amendment.

The provisions of this clause were adopted first in 1789. At that time a second was required for every motion, but in practice this requirement became obsolete very early, and it was dropped from the rule in 1880 (V, 5304).

The House always insists that the motion shall be stated or read before debate shall begin (V, 4983) and the Clerk's reading may be dispensed with only by unanimous consent (Dec. 15, 1975, p. 40671; see sec. 432, Jefferson's Manual). It is the duty of the Speaker to put a motion in order under the rules and practice without passing on its constitutional effect (IV, 3550; VIII, 2225, 3031, 3071, 3427). In a case wherein a clerk presiding during organization of the House declined to put a question, a Member-elect put the question from the floor (I, 67).

Under certain circumstances, a Member may make a double motion (V, 5637).

§ 777. Conditions of withdrawal of motions.

Even after the affirmative side has been taken on a division the withdrawal of a motion has been permitted (V, 5348), also after a viva voce vote and the ordering and appointment of tellers (V, 5349). While the House was dividing on a second of the previous question (this second is no longer required) on a motion to refer a resolution, the Member was permitted to withdraw the resolution (V, 5350); also a motion was once withdrawn after the previous question had been ordered on an appeal from a decision on a point of order as to the motion (V, 5356). A motion to suspend the rules may be withdrawn at any time before a second is ordered (V, 6844; VIII, 3405, 3419), even on another suspension day (V, 6844) but not after a second is ordered, except by unanimous consent (VIII, 3420); but where a second is not required on a motion to suspend the rules under clause 2, Rule XXVIII—the bill having been available for one legislative day—the motion may be withdrawn at any time before the Chair puts the question and a voice vote is taken thereon (July 27, 1981, p. 17563). A motion may be withdrawn although an amendment may have been offered and be pending (V, 5347; VI, 373; VIII, 2639), and in the House an amendment, whether simple or in the nature of a substitute, may be withdrawn at any time before amendment or decision is had thereon (VI, 587; VIII, 2332, 2764); and the same right to withdraw an amendment exists in the House as in Committee of the Whole (IV, 4935; June 26, 1973, p. 21315); but unanimous consent to withdraw an amendment is required in Committee of the Whole (V, 5221, 5753; VI, 570; VIII, 2465, 2859, 3405). Withdrawal of a pending resolution is not in order when the absence of a quorum has been announced by the Chair (Oct. 14, 1970, pp. 36665–69). A motion that the House resolve into the Committee of the Whole for the consideration of a bill may be withdrawn pending a point of order against consideration of the bill, and if the motion is withdrawn the Chair is not obligated to rule on the point of order (VIII, 3405; Dec. 3, 1979, p. 34385). Unanimous consent is not required to withdraw a pending unanimous-consent request (Speaker O'Neill, Dec. 16, 1985, p. 36575).

A "decision" which prevents withdrawal may consist of the ordering of the yeas and nays (V, 5353), either directly on the motion or on a motion to lay it on the table (V, 5354), the ordering of the previous question (V, 5355), or the demand therefor (V, 5489), or the refusal to lay on the table (V, 5351, 5352; VIII, 2640). Where the Speaker has put the question on adoption of a resolution to a voice vote without the ordering of the previous question, and the yeas and nays have not been ordered, the resolution may be withdrawn (V, 5349; Feb. 26, 1985, p. 3501). A privileged resolution called up in the House is debated under the hour rule; and the

Member calling up such a resolution is recognized for an hour notwithstanding the fact that the resolution has been previously considered, debated, and then withdrawn before action thereon (Apr. 8, 1964, pp. 7303-08).

A Member having the right to withdraw a motion before a decision thereon has the resulting power to modify the motion (V, 5358). A motion being withdrawn, all proceedings on an appeal arising from a point of order related to it fell thereby (V, 5356).

§ 778. The question of consideration.

3. When any motion or proposition is made, the question, Will the House now consider it? shall not be put unless demanded by a Member.

The question of consideration is an outgrowth of the practice of the House, and was in use as early as 1808. The rule was adopted in 1817 in order to limit its use. It is the means by which the House protects itself from business which it does not wish to consider (V, 4936; VIII, 2436). The refusal to consider does not amount to the rejection of a bill or prevent its being brought before the House again (V, 4940), and an affirmative vote does not prevent the question of consideration from being raised on a subsequent day when the bill is again called up as unfinished business (VIII, 2438). It has once been held that a question of privilege which the House has refused to consider may be brought up again on the same day (V, 4942). The question of consideration is not debatable (VIII, 2447). See also Rule XXV (sec. 900, infra), which provides that questions relating to the priority of business are not debatable.

§ 779. Raising the question of consideration.

A Member may demand the question of consideration, although the Member in charge of the bill may claim the floor for debate (V, 4944, 4945; VI, 404); but after debate has begun the demand may not be made (V, 4937-4939). It has been admitted, however, after the making of a motion to lay on the table (V, 4943). The demand for the question of consideration may not be prevented by a motion for the previous question (V, 5478), but after the previous question is ordered it may not be demanded (V, 4965, 4966), even on another day, unless other business has intervened (V, 4967, 4968). The question of consideration being pending, a motion to refer is not in order (V, 5554).

The intervention of an adjournment does not destroy the right to raise the question of consideration (V, 4946), but this right did not hold good in a case where the yeas and nays had been ordered and the House had adjourned pending the failure of a quorum on the roll call (V, 4949). A question of consideration undisposed of at an adjournment does not recur as unfinished business on a succeeding day (V, 4947, 4948). It is not in order to reconsider the vote whereby the House refuses to consider a bill (V, 5626, 5627).

§ 780. Questions subject to the question of consideration.

The question of consideration may be demanded against a matter of the highest privilege, such as the right of a Member to his seat (V, 4941), a question involving the privilege of the House (VI, 560), against the motion to reconsider (VIII, 2437), but not against a bill returned with the President's objection (V, 4960, 4970). It may not be raised against a proposition before the House for reference merely, as a petition (V, 4964). It may not be demanded against a class of business in order under a special order or rule, but may be demanded against each bill individually (IV, 3308, 3309; V, 4958, 4959). It may be raised against a bill which has been made a special order (IV, 3175; V, 4953–4957), unless the order provides for immediate consideration (V, 4960), and it may be raised against a bill on the Union Calendar on Calendar Wednesday before resolving into the Committee of the Whole even after one Wednesday has been devoted to it (VIII, 2447); but it may not be raised against a report from the Committee on Rules relating to the order of considering individual bills (V, 4961–4963; VIII, 2440, 2441).

The question of consideration may not be raised on a motion relating to the order of business (V, 4971–4976; VIII, 2442; May 21, 1958, p. 9216); to a motion to discharge a committee (V, 4977); or against a motion to take from the Speaker's table Senate bills substantially the same as House bills already favorably reported and on the House Calendar (VIII, 2443). On a motion to go into Committee of the Whole to consider a bill the House expresses its wish as to consideration by its vote on this motion (V, 4973–4976; V, 51; VIII, 2442; May 21, 1958, p. 9216).

§ 781. Relation of question of consideration to points of order.

A point of order against the eligibility for consideration of a bill which if sustained might prevent consideration should be made and decided before the question of consideration is put (V, 4950, 4951; VII, 2439), but if the point relates merely to the manner of considering, it should be passed on afterwards (V, 4950). In general, after the House has decided to consider, a point of order raised with the object of preventing consideration, in whole or part, comes too late (IV, 4598; V, 4952, 6912–6914), but on a conference report the question of consideration may be demanded before points of order are raised against the substance of the report (VIII, 2439; Speaker Albert, Sept. 28, 1976, p. 33019).

§ 782. Precedence of privileged motions.

4. When a question is under debate, no motion shall be received but to adjourn, to lay on the table, for the previous question (which motions shall be decided without debate), to postpone to a day certain, to refer, or to amend, or postpone indefinitely; which several motions shall have precedence in

the foregoing order; and no motion to postpone to a day certain, to refer, or to postpone indefinitely, being decided, shall be again allowed on the same day at the same stage of the question. After the previous question shall have been ordered on the passage of a bill or joint resolution one motion to recommit shall be in order, and the Speaker shall give preference in recognition for such purpose to a Member who is opposed to the bill or joint resolution. However, with respect to any motion to recommit with instructions after the previous question shall have been ordered, it always shall be in order to debate such motion for ten minutes before the vote is taken on that motion, except that on demand of the floor manager for the majority it shall be in order to debate such motion for one hour. One half of any debate on such motions shall be given to debate by the mover of the motion and one half to debate in opposition to the motion. It shall be in order at any time during a day for the Speaker, in his discretion, to entertain a motion that when the House adjourns it stand adjourned to a day and time certain. Such a motion shall be of equal privilege with the motion to adjourn provided for in this clause and shall be determined without debate.

The first form of this clause appears in 1789; but amendments have been made at various times (V, 5301; VIII, 2757). That portion of the clause relating to debate on the motion to recommit with instructions was included as sec. 123 of the Legislative Reorganization Act of 1970 and was made a part of the standing rules on January 22, 1971, p. 144 (H. Res. 5, 92d Cong.). The final sentence of the clause was added in the 93d Cong., January 3, 1973 (H. Res. 6), pp. 26-27. This clause was amended in the 99th Congress to provide that on the demand of the majority floor manager of a bill or joint resolution, the ten minutes of debate on a motion to recommit with instructions, the previous question having been ordered, may be extended to one hour, equally divided and controlled (H. Res. 7, Jan. 3, 1985, p. 393).

The application of the first sentence of the clause is confined to cases wherein a question is "under debate" (V, 5379). It has been held that a question ceases to be "under debate" after the previous question has been ordered (V, 5415). But with the exception of the motion to adjourn it is obvious that the motions specified in this rule can only be used when some question is "under debate."

§ 783. The motion to adjourn.

The motion to adjourn not only has the highest precedence when a question is under debate, but, with certain restrictions, it has the highest privilege under all other conditions. Even questions of privilege (III, 2521), such as a motion privileged under the Constitution (VIII, 2641); the filing of a privileged report pursuant to clause 4(a), Rule XI (Apr. 29, 1985, p. 9699), and the motion to reconsider yield to it (V, 5605), and a conference report may defer it only until the report is before the House (V, 6451-6453). The motion may be made after the yeas and nays are ordered and before the roll call has begun (V, 5366), before the reading of the Journal (IV, 2757) or the Speaker's approval thereof (Speaker Wright, Nov. 2, 1987, p. ——), pending a motion to reconsider (Sept. 20, 1979, pp. 25512-3), after the House rejects a motion to table a motion to instruct conferees and before the vote occurs on the motion to instruct (May 29, 1980, pp. 12717-9), or when the Speaker is absent and the Clerk is presiding (I, 228), and in the absence of a quorum has precedence over the motion for a call of the House (VIII, 2642), takes priority of a motion to dispense with further proceedings under the call (VIII, 2643), and takes precedence of a motion directing the Sergeant-at-Arms to arrest absentees during a call of the House (June 6, 1973, p. 18403). But the motion to adjourn may not interrupt a Member who has the floor (V, 5369, 5370; VIII, 2646) as, for example, by virtue of unanimous-consent permission to announce to the House the legislative program (Dec. 14, 1982, p. 30549), or a call of the yeas and nays (V, 6053), or the actual act of voting by other means (V, 5360), or be made after the House has voted to go into Committee of the Whole (IV, 4728; V, 5367, 5368), or defer the right of a Member to take the oath (I, 622) and may not be repeated in the absence of intervening business (Speaker Albert, July 31, 1975, p. 26243); and when no question is under debate it may not displace a motion to fix the day to which the House shall adjourn (V, 5381). The Speaker has refused to recognize for a motion to adjourn pending a vote on a proposition, where a special order provided that the House vote thereon "without intervening motion" (IV, 3211-3213).

When the House has fixed the hour of daily meeting, the motion to adjourn may not be amended (V, 5754) as by specifying a particular day (V, 5360) or hour (V, 5364), or by stating the purposes of adjournment (V, 5371, 5372; VIII, 2647); but when the hour of daily meeting is not fixed, the motion to adjourn may fix it (V, 5362, 5363). A motion to adjourn is in order in simple form only (VIII, 2647), is not debatable (V, 5359), is not in order in Committee of the Whole (IV, 4716), and is not entertained when the Committee of the Whole rises to report proceedings incident to securing a quorum (VI, 673; VIII, 2436). After the motion is made neither another motion nor an appeal may intervene before the taking of the vote (V, 5361).

§ 784. Motion to fix the day to which the House shall adjourn.

The motion to fix the day and time to which the House shall adjourn, in its present form, was included in this clause of Rule XVI and given privileged status in the 93d Congress (H. Res. 6, Jan. 3, 1973, pp. 26-27). At several times during the 19th Century the motion to fix the day to which the House should adjourn was included within the rule as to the precedence of motions but was dropped because of its use in obstructive tactics (V, 5301, 5379). The following precedents relate to the use of the motion in its earlier form: No question being under debate, a motion to fix the day to which the House should adjourn, already made, was held not to give way to a motion to adjourn (V, 5381). But if the motion to adjourn be made first, the motion to fix the day or for a recess is not entertained (V, 5302). The motion to fix the day is not debatable under the practice of the House (V, 5379, 5380; VIII, 2648, 3367), requires a quorum for adoption (IV, 2954; June 19, 1975, p. 19789; June 22, 1976, p. 19755), and is only in order if offered on the day on which the adjournment applies (Speaker pro tempore O'Neill, Sept. 23, 1976, p. 32104). The House may convene and adjourn twice on the same calendar day pursuant to a motion under this clause that when the House adjourn it adjourn to a time certain later in the day, thereby meeting for two legislative days on the same calendar day (Nov. 17, 1981, p. 27771; Oct. 29, 1987, p. ——). When the Speaker exercises his discretion to entertain "at any time" a motion that when the House adjourn it stand adjourned to a day and time certain, the motion is of equal privilege with the simple motion to adjourn and takes precedence over a pending question on which the vote has been objected to for lack of a quorum (Nov. 17, 1981, p. 27770). The motion is not subject to the motion to lay on the table since it is not debatable and the precedence conferred on the motion to table only applies to a question which is "under debate" (Nov. 17, 1981, p. 27770).

§ 785. Motion to lay on the table.

The motion to lay on the table is used in the House for a final, adverse disposition of a matter without debate (V, 5389), and is in order before the Member entitled to prior recognition for debate has begun his remarks (V, 5391-5395; VIII, 2649, 2650). The motion is applicable to a motion to reconsider (VIII, 2652, 2659), motion to postpone to a day certain (VIII, 2654, 2657), resolution presenting question of privilege (VI, 560), appeal from decision of the Chair (VIII, 3453), motion to discharge committee from resolution of inquiry (VI, 415), motion that the Journal be approved as read (Sept. 13, 1965, p. 23600), proposal to investigate with view to impeachment (VI, 541), concurrent resolution to adjourn sine die (March 27, 1936, p. 4512) and a resolution to expel a Member (Oct. 1, 1976, p. 35111). But a question of privilege laid on the table may be taken therefrom on motion made and agreed to by the House (V, 5438). The motion to lay on the table has the precedence given it by the rule, but may not be made after the previous question is ordered (V, 5415–5422; VIII, 2655), or even after the yeas and nays have been ordered on the demand for the previous question (V, 5408, 5409); but pending the demand for the previous question on a motion which is under debate, the motion to lay the primary motion on the table is preferential and is voted on first (Speaker Albert, Sept. 22, 1976, pp. 31876–82; Speaker O'Neill, July 10, 1985, p. 18397–400). The previous question having been ordered on a bill to final passage, the motion to lay the bill on the table may not then be offered pending a motion to reconsider the vote whereby the bill had been passed or rejected (Sept. 20, 1979, pp. 25512–3).

When a bill is laid on the table, pending motions connected therewith go to the table also (V, 5426, 5427); and when a proposed amendment is laid on the table the pending bill goes there also (V, 5423; VIII, 2656), and this rule holds good as to a House bill with Senate amendments (V, 5424, 6201–03; Sept. 28, 1978, p. 32334), but laying on the table the motion to postpone consideration of Senate amendments was held not to carry to the table pending motions for their disposition (VIII, 2657). The Journal does not accompany a proposed amendment to the table (V, 5435, 5436); the original question does not accompany an appeal (V, 5434); a resolution does not accompany another resolution with which it is connected, or a preamble (V, 5248, 5430); and a petition does not accompany the motion to receive it when the latter is laid on the table (V, 5431–5433); a bill does not accompany a motion to instruct conferees which is laid on the table (VIII, 2658).

A motion to lay on the table a motion to reconsider the vote by which an amendment to a resolution had been agreed to would not carry the resolution to the table (VIII, 2652).

The motion is not in order in Committee of the Whole (IV, 4719, 4720; VIII, 2330, 2556a, 3455), or on motions to go into the Committee of the Whole (VI, 726). It may not be amended (V, 5754) or applied to the motions for the previous question (V, 5410–5411), to suspend the rules (V, 5405), to commit after the previous question is ordered (V, 5412–5414; VIII, 2653, 2655), or to any motion relating to the order of business (V, 5403, 5404). It may not be applied to a motion to discharge a committee under Rule XXVII (June 11, 1945, p. 5892) but may be applied to the motion to discharge a committee from consideration of a resolution of inquiry (V, 5407). It is generally not applicable to motions which are neither debatable nor amendable and hence cannot be applied to a motion to dispense with further proceedings under a call of the House (Speaker McCormack, Aug. 27, 1962, pp. 17651–54), or to a motion that when the House adjourn it stand adjourned to a day and time certain (Nov. 17, 1981, p. 27770). The motion to lay on the table is applicable to debatable secondary or privileged motions for disposal of another matter; thus a motion to refer (V, 5433; Aug. 13, 1982, pp. 20969, 20975–78) or a motion to recede and concur in a Senate amendment in disagreement may be laid on the table (Speaker O'Neill, Feb. 22, 1978, p. 4072) without carrying the pending matter to the table.

§ 786. The motions to postpone.

As indicated in the rule, the motions to postpone are two in number and distinct: One to postpone to a day certain; the other to postpone indefinitely. Each must apply to the whole and not a part of the pending proposition (V, 5306). Neither may be entertained after the previous question is ordered (V, 5319–5321; VIII, 2616, 2617), or be applied to a special order providing for the consideration of a class of bills (V, 4958); but when a bill comes before the House under the terms of a special order which assigns a day merely, a motion to postpone may be applied to the bill (IV, 3177–3182). Business postponed to a day certain is in order on that day immediately after the approval of the Journal and disposition of business on the Speaker's Table, unless displaced by more highly privileged business (VIII, 2614). Where consideration of a measure postponed to a day certain resumes as unfinished business in the House, recognition for debate does not begin anew but recommences from the point where it was interrupted (June 10, 1980, p. 13801). It is not in order to postpone pending business to Calendar Wednesday (VIII, 2614), but if so postponed by consent, when consideration is concluded on that Wednesday, the remainder of the day is devoted to business in order under the Calendar Wednesday rule (VII, 970). The motion is not used in Committee of the Whole, but a motion that a bill be reported with the recommendation that it be postponed is in order in the Committee of the Whole proceeding under the general rules of the House (IV, 4765; VIII, 2372), is debatable (VIII, 2372), and is a preferential motion (VIII, 2372, 2615), but debate is confined to the advisability of postponement only (VIII, 2372). It has been held in order to postpone an appeal (VIII, 2613). A bill under consideration in the morning hour may not be made a special order by a motion to postpone to a day certain (IV, 3164).

The motion to postpone to a day certain may not specify the hour (V, 5307). The motion may be amended (V, 5754; VIII, 2824). It is debatable within narrow limits only (V, 5309, 5310), the merits of the bill to which it is applied not being within those limits (V, 5311–5315; VIII, 2372, 2616, 2640).

The motion to postpone indefinitely opens to debate all the merits of the proposition to which it is applied (V, 5316). It may not be applied to the motion to refer (V, 5317), to suspend the rules (V, 5322), or motion to resolve into the Committee of the Whole (VI, 726), and it is reasonable to infer that it is equally inapplicable to the other secondary or privileged motions enumerated in the rule and to motions relating to the order of business. However, the motion to postpone indefinitely may be applied to the motion that the House resolve itself into the Committee of the Whole pursuant to the provisions of a statute, enacted under the rule-making power of the House of Representatives, which specifically allows such a motion in the consideration of a resolution disapproving a certain executive action (Mar. 10, 1977, p. 7021; Aug. 3, 1977, p. 26528).

§ 787. The motions to refer.

The parliamentary motion to refer is explicitly recognized and given status in four different situations under House rules: The ordinary motion provided for in the first sentence of this clause; the motion to recommit with or without instructions after the previous question has been ordered on a bill or joint resolution to final passage, provided in the second sentence of this clause; the motion to commit, with or without instructions, pending the motion for or after ordering of the previous question as provided in clause 1, Rule XVII (V, 5569) and the motion to refer, with or without instructions, pending a vote in the House to strike out the enacting clause as provided in clause 7, Rule XXIII. The terms "refer", "commit" and "recommit" are sometimes used interchangeably (V, 5521; VIII, 2736), but when used in the precise manner and situation contemplated in each rule, reflect certain differences based upon whether the question to which applied is "under debate", whether the motion itself is debatable, whether a Minority Member or a Member opposed to the question to which the motion is applied is entitled to a priority of recognition, and whether the prohibition in clause 4(c), Rule XI against a special order reported from the Committee on Rules denying a motion to recommit a bill or joint resolution pending final passage is applicable. The motion may not be used in direct form in Committee of the Whole (IV, 4721; VIII, 2326); and where a bill is being considered under the provisions of a resolution stating that "at the conclusion of the consideration of the bill for amendment under the five-minute rule the Committee shall rise and report the bill back to the House with such amendments as may have been adopted", a motion that the Committee rise and report to the House with the recommendation that the bill be recommitted to the legislative committee reporting it is not in order (Aug. 10, 1950, p. 12219). It may be made after the engrossment and third reading of a bill, even though the previous question may not have been ordered (V, 5562, 5563).

If the previous question is rejected on a preferential motion to dispose of Senate amendments in disagreement, the preferential motion remains "under debate" and the motion to refer may be offered under this clause (Speaker Albert, Sept. 16, 1976, pp. 30887-8). A motion to refer takes precedence over motion to amend when a question is under debate (such as where the previous question has been rejected), and the Chair recognizes the Member seeking to offer the preferential motion before the less preferential motion is read (Aug. 13, 1982, pp. 20969, 20975–78).

The simple motion to refer under the first sentence of this clause is debatable within narrow limits (V, 5054) and may be offered by any Member (who need not qualify as being in opposition to the pending question) when that question is "under debate", i.e., when the previous question has not been moved or ordered, but the merits of the proposition which it is proposed to refer may not be brought into the debate (V, 5564–5568; VI, 65, 549; VIII, 2740). The motion to refer with instructions is also debatable (V, 5561); but when the previous question is ordered on a bill to final passage, debate on a straight motion to recommit under the second sentence of this clause is no longer in order and a motion to recommit with instructions is debatable only for the ten minutes specified in the rule. [Prior to the amendment to clause 4, Rule XVI, in the 92d Congress, no debate on a motion to recommit with instructions was permitted after the previous question was ordered (V, 5561, 5582–5584; VIII, 2741)]. The ten minutes' debate provided under this clause on motions to recommit with instructions does not apply to a motion to recommit with instructions a simple or concurrent resolution or conference report, since the clause limits its applicability to bills and joint resolutions (Nov. 15, 1973, p. 37151; Mar. 29, 1976, p. 8444; Speaker O'Neill, June 19, 1986, p. ——). The manager of a bill or joint resolution and not the proponent of a motion to recommit with instructions has the right to close debate on the motion to recommit (Speaker Wright, Dec. 3, 1987, p. ——); the Member recognized for five minutes in favor of the motion may not reserve time (Speaker Wright, June 29, 1988, p. ——).

§ 788. Instructions with the motion to refer.

The motion to refer may specify that the reference shall be to a select as well as a standing committee (IV, 4401) without regard for rules of jurisdiction (IV, 4375; V, 5527) and may provide for reference to another committee than that reporting the bill (VIII, 2696, 2736), or to the Committee of the Whole (V, 5552–5553), and even that the committee be endowed with power to send for persons and papers (IV, 4402). Unless the previous question is ordered the motion may be amended (VIII, 2712, 2738), in part (V, 5754); by substitute (VIII, 2698, 2738, 2759); or by adding instructions (V, 5521, 5570, 5582–5584; VIII, 2695, 2762; Aug 13, 1982, pp. 20969, 20975–78). The ordering of the previous question on a bill and all amendments to final passage precludes debate (other than that specified in Rule XVI, clause 4) on a motion to recommit but does not exclude amendments to such motion (V, 5582; VIII, 2741) and unless the previous question is ordered on a motion to recommit with instructions, the motion is open to amendment, and a substitute striking out all of the proposed instructions and substituting others cannot be ruled out as interfering with the right of the minority to move recommitment (VIII, 2759). The Member offering a motion to recommit a bill with instructions may, at the conclusion of the 10 minutes of debate thereon, yield to another Member to offer an amendment to the motion if the previous question has not been ordered on the motion to recommit (Speaker Albert, July 19, 1973, p. 24967). It is not in order to propose as instructions anything that might not be proposed directly as an amendment (V, 5529-5541; VIII, 2705), such as to eliminate an amendment adopted by the House (VIII, 2712), strike out an amendment which has been adopted and insert something in its place (VIII, 2715), to amend an adopted amendment (VIII, 2720, 2721, 2724), to propose an amendment containing legislation on a general appropriation bill (Sept. 1, 1976, pp. 28883-4), or to propose instructions to add a limitation to a general appropriation bill except pursuant to clause 2(d) of Rule XXI (prohibiting limitation amendments except pursuant to the procedures contained in that clause) (Sept. 19, 1983, p. ——); and where a special rule providing for the consideration of a bill prohibited the offering of amendments to a certain title of the bill during its consideration (in both the House and the Committee of the Whole), it was held not in order to offer a motion to recommit with instructions to incorporate an amendment in the restricted title (Jan. 11, 1934, pp. 479-83). It has been a practice, however, to permit a motion to recommit with instructions that the committee report "forthwith," in which case the chairman makes report at once without awaiting action by the committee (V, 5545-5547; VIII, 2730), and the bill is before the House for immediate consideration (V, 5550; VIII, 2735). If one motion to recommit is ruled out, a proper motion is admissible (VIII, 2736, 2760, 2761, 2763). The motion may be withdrawn in the House at any time before action or decision thereon (VIII, 2764). The simple motion to recommit and the motion to recommit with instructions are of equal privilege and have no relative precedence (VIII, 2714, 2758, 2762; Nov. 25, 1970. Rec. p. 38997). When a bill is recommitted it is before the committee as a new subject (IV, 4557; V, 5558), but the committee must confine itself to the instructions, if there be any (IV, 4404; V, 5526). Where the House has recommitted a bill to a committee with instructions to report it back forthwith with certain amendments, the amendments must be adopted by the House after the report by the Committee (VIII, 2734).

As stated in the second sentence of clause 4, Rule XVI, recognition to offer the motion to recommit, whether a "straight" motion or with instructions, is the prerogative of a Member who is opposed to the bill or joint resolution (Speaker Martin, Mar. 19, 1954, p. 3967); and the Speaker looks first to minority members of the committee reporting the bill, in order of their rank on the committee (Speaker Garner, Jan. 6, 1932, p. 1396; Speaker Byrns, July 2, 1935, p. 10638), then to other Members on the minority side (Speaker Rayburn, Aug. 16, 1950, p. 12608). Until a qualifying Minority Member has had his motion read by the Clerk, he is not entitled to the floor so as to prevent another qualifying senior Minority Member from the reporting committee from seeking recognition to offer the motion to recommit (Speaker O'Neill, Apr. 24, 1979, pp. 8360-1). If no Member of the minority qualifies, a majority Member who is opposed to the bill may be recognized (Speaker Garner, Apr. 1, 1932, p. 7327). The priority of recognition of a Member of the minority who is opposed is not diminished by the fact that the minority party may have successfully led the opposition to the previous question on the special order governing consideration of the bill and offered a "modified closed rule" permitting only minority Members to offer perfecting amendments to the majority text (June 26, 1981, p. 14740). But while the motion to recommit is the prerogative of the minority if opposed, a Member who in the Speaker's determination leads the opposition to the previous question on the motion to recommit, such as the chairman of the committee reporting the bill, is entitled to offer an amendment to the motion to recommit, regardless of party affiliation (June 26, 1981, pp. 14791–3). A Member who is opposed to the bill "in its present form" (i.e., in the form before the House when the motion is made) qualifies to offer the motion (Speaker Martin, Apr. 15, 1948, p. 4547; Speaker McCormack, Mar. 12, 1964, p. 5147; Speaker Albert, Feb. 19, 1976, p. 3920). These principles of recognition have been applied to motions to "commit" or "recommit" simple or concurrent resolutions as well under clause 1, Rule XVII in situations where the resolution or a similar measure has been reported from committee (Nov. 28, 1979, p. 33914).

§ 789. Repetition of motions.

The rule specifies that the motions to postpone and refer shall not be repeated on the same day at the same stage of the question (V, 5301, 5591; VIII, 2738, 2760). Under the practice, also, a motion to adjourn may be repeated only after intervening business (V, 5373; VIII, 2814), debate (V, 5374), the ordering of the yeas and nays (V, 5376, 5377), decision of the Chair on a question of order (V, 5378), reception of a message (V, 5375). The motion to lay on the table may also be repeated after intervening business (V, 5398–5400); but the ordering of the previous question (V, 5709), a call of the House (V, 5401), or decision of a question of order have been held not to be such intervening business, it being essential that the pending matter be carried to a new stage in order to permit a repetition of the motion (V, 5709).

§ 790. Entry of hour of adjournment on the Journal.

5. The hour at which the House adjourns shall be entered on the Journal.

This clause was adopted in 1837, and amended in 1880 (V, 6740).

§ 791. Division of the question.

6. On the demand of any Member, before the question is put, a question shall be divided if it includes propositions so distinct in substance that one being taken away a substantive proposition shall remain: *Provided,*

That any motion or resolution to elect the members or any portion of the members of the standing committees of the House and the joint standing committees shall not be divisible, nor shall any resolution or order reported by the Committee on Rules, providing a special order of business be divisible.

This clause was first adopted in 1789, and was amended in 1837 (V, 6107). The first part of the proviso was adopted April 2, 1917 (VIII, 2175) and the last part May 3, 1933 (VIII, 3164).

The House may by adoption of a resolution reported from the Committee on Rules suspend the rule providing for the division of a question (VII, 775).

§ 792. Principles governing the division of the question.

The principle that there must be at least two substantive propositions in order to justify division is insisted on rigidly (V, 6108–6113), as failure to do so produces difficulties (III, 1725). The question may not be divided after it has been put (V, 6162), or after the yeas and nays have been ordered (V, 6160, 6161); but division of the question may be demanded after the previous question is ordered (V, 5468, 6149; VIII, 3173), except on resolutions to elect Members to committees or on resolutions reported from the Committee on Rules providing a special order of business. Thus a resolution reported from the Committee on Rules establishing several select committees in grammatically divisible titles, not being a special order of business, is subject to a demand for a division of the question (Jan. 8, 1987, p. ——). In passing on a demand for division the Chair considers only substantive propositions and not the merits of the question presented (V, 6122). It seems to be most proper, also, that the division should depend on grammatical structure rather than on the legislative propositions involved (I, 394; V, 6119), but a question presenting two propositions grammatically is not divisible if either does not constitute a substantive proposition when considered alone (VII, 3165). Thus a resolution censuring a Member and adopting a report of a committee thereon, which recommends censure on the basis of the committee's findings, is not divisible since those questions are substantially equivalent (Speaker O'Neill, Oct. 13, 1978, pp. 37016–17); however, a concurrent resolution on the budget is subject to a demand for a division of the question if the resolution grammatically and substantively relates to different fiscal years (May 7, 1980, pp. 10185–7). Decisions have been made that a resolution affecting two individuals may be divided, although such division may involve a reconstruction of the text (I, 623; V, 6119–6121). The better practice seems to be, however, that this reconstruction of the text should be made by the adoption of a substitute amendment of two branches, rather than by interpretation of the Chair (II, 1621). But merely formal words, such as "resolved," may be supplied by interpretation of the Chair (V, 6114-6118). A resolution with two resolve clauses separately certifying the contemptuous conduct of two individuals is divisible (Feb. 27, 1986, p.——). It is not in order to demand a division of a related subject, as, when a resolution to adopt a series of rules, not made a part of the resolution, was before the House, it was held not in order to demand a separate vote on each rule (V, 6159). In voting on the engrossment or passage of a bill or joint resolution a separate vote on the various portions may not be demanded (V, 6144-6146; VIII, 3172), or on the preamble of a bill (V, 6147); but on a series of simple resolutions a division may be demanded (V, 6149), and a division of the question may be demanded on a resolution confirming several nominations (Speaker Albert, March 19, 1975, p. 7344). Where an amendment is offered to an appropriation bill providing that no part of the appropriation may be paid to named individuals, the amendment may be divided for a separate vote on each name (Feb. 5, 1943, p. 645). An amendment (to a joint resolution making continuing appropriations) containing separate paragraphs appropriating funds for different programs may be substantively and grammatically divisible although preceded by the same prefatory language applicable to all the paragraphs, and the Clerk will read each paragraph as including the prefatory language prior to the Chair's putting the question thereon (Nov. 8, 1983, p. ——). When a motion is made to lay several connected propositions on the table a division is not in order (V, 6138-6140). A division may be demanded on the motion to recede from disagreement to a Senate amendment and concur therein (§ 525; V, 6209; VIII, 3197-3199, 3203), on a proposition to strike out various unrelated phrases (VIII, 3166; Mar. 28, 1984, p. ——), on a resolution of impeachment (VI, 545), but may not be demanded on Senate amendments when sending to conference (V, 6151-6156; VIII, 3175). A division of the question may not be demanded, with respect to a motion to concur in a Senate amendment with an amendment, between concurring and amending (VIII, 3176), and may not be demanded on separate parts of the proposed amendment if it is not properly divisible under the same tests that apply to any other amendment (Aug. 3, 1973, pp. 28124-26; Oct. 11, 1984, p. ——). Thus a proposed amendment to a Senate amendment is not divisible under clause 7 of this Rule if in the form of a motion to strike out and insert (Oct. 15, 1986, p.——). Each Senate amendment must be voted on as a whole (VIII, 3175) but the Committee of the Whole having reported a Senate amendment with the recommendation that it be agreed to with an amendment, a separate vote was had on the amendment to the Senate amendment (VIII, 2420). When Senate amendments to a House bill are considered in the House a separate vote may be had on each amendment (VIII, 2383, 2400, 3191), and separate votes may be had on nongermane portions of Senate amendments as provided in clause 5, Rule XXVIII. On a motion to commit with instructions it is not in order to demand a separate vote on the instructions or various branches thereof (V, 6134-6137; VIII, 2737, 3170; Speaker Rayburn, Apr. 11, 1956, p. 6157). A division of the question may not be demanded on a motion to strike out and insert (V, 5767, 6123; VIII, 3169; clause 7, Rule XVI), on bills or joint resolutions for reference (IV, 4376) or change of reference (VII, 2125), a motion to elect Members to committees of House (VIII, 2175, 3164; clause 6, Rule XVI), a question against which a point of order is pending (VIII, 3432), a proposition under a motion to suspend the rules (V, 6141-6143; VIII, 3171), or on substitutes for pending amendments (V, 6127; VIII, 3168; Aug. 17, 1972, pp. 28887-90; July 2, 1980, pp. 18288-92), but a perfecting amendment to an amendment may be divisible if not in the form of a motion to strike out and insert (V, 6131). A proposition reported from the Committee of the Whole as an entire and distinct amendment may not be divided, but must be voted on in the House as a whole (IV, 4883-4892), and a separate vote may not be demanded in the House on an amendment adopted in the Committee of the Whole to an amendment (VIII, 2422, 2426, 2427). On a decision of the Speaker involving two distinct questions, there may be a division on appeal (V, 6157). After the vote on the first member of the question, the second is open to debate and amendments, unless the previous question is ordered (§ 482). Where a division of the question is demanded on a portion of an amendment, the Chair puts the question first on the remaining portions of the amendment, and that portion on which the division is demanded remains open for further debate and amendment; and where a division of the question is demanded on more than one portion of an amendment, the Chair puts the question first on the remaining portions of the amendment (if any), then on the first part on which a division is demanded, and then on the last part on which a division is demanded (Oct. 21, 1981, p. 24785-89). An adjournment resolution which also authorizes the receipt of veto messages from the President during the adjournment is not subject to a division of the question, as the receipt authority would be nonsensical standing alone (June 30, 1976, p. 21702).

A demand for a division of the question on a separate portion of an amendment may be withdrawn only by unanimous consent once the Chair has put the question on the first portion of the amendment (Sept. 9, 1976, pp. 29538-40).

§ 793. Motion to strike out and insert not divisible.

7. A motion to strike out and insert is indivisible, but a motion to strike out being lost shall neither preclude amendment nor motion to strike out and insert; * * *

This clause was adopted in 1811, and amended in 1822 (V, 5767).

When it is proposed to strike out and insert not one but several connected matters, it is not in order to demand a separate vote on each of those matters (V, 6124, 6125), as when an amendment in the nature of a substitute containing several resolutions is proposed; but after this amendment has been agreed to, it is in order to demand a division of the original resolution as amended (V, 6127, 6128). When, however, an amendment simply adding or inserting is proposed, it is in order to divide the amendment (V, 6129-6133). To a motion to strike certain words and insert others, a simple motion to strike out the words may not be offered as a substitute, as it would have the effect of dividing the motion to strike out and insert (June 29, 1939, pp. 8282, 8284-85; June 19, 1979, pp. 15566-8).

§ 791. Germane amendment.

* * * and no motion or proposition on a subject different from that under consideration shall be admitted under color of amendment.

This clause was adopted in 1789, and amended in 1822 (V, 5767, 5825). It introduced a principle not then known to the general parliamentary law (V, 5825), but of high value in the procedure of the House (V, 5866). Prior to the adoption of rules, when the House is operating under general parliamentary law, as modified by the usage and practice of the House, an amendment may be subject to the point of order that it is not germane to the proposition to which offered (Jan. 3, 1969, p. 23). The principle of the rule applies to a proposition by which it is proposed to modify the pending bill, and not to a portion of the bill itself (V, 6929); thus a point of order will not lie that an appropriation in a general appropriation bill is not germane to the rest of the bill (Dec. 16, 1963, p. 24753). In general, an amendment simply striking out words already in a bill may not be ruled out as not germane (V, 5805; VIII, 2918) unless such action would change the scope and meaning of the text (VIII, 2917-2921; Mar. 23, 1960, p. 6381); and a pro forma amendment "to strike out the last word" has been considered germane (July 28, 1965, p. 18639). While a committee may report a bill or resolution embracing different subjects, it is not in order during consideration in the House to introduce a new subject by way of amendment (V, 5825). The rule that amendments should be germane applies to amendments reported by committees (V, 5806), but a resolution providing for consideration of the bill with committee amendments may waive points of order (Oct. 10, 1967, p. 28406). A resolution reported from the Committee on Rules providing for the consideration of a bill relating to a certain subject may be amended neither by an amendment which would substitute the consideration of an unrelated proposition (V, 5834-36; VIII, 2956; Sept. 14, 1950, p. 14844) nor an amendment which would permit the additional consideration of a non-germane amendment to the bill (May 29, 1980, pp. 12667-73; Aug. 13, 1982, p. 20972). The Chair will not interpret as a point of order under a specific rule of the House, on which he must rule, an objection to a substitute as "narrowing the scope" of a pending amendment, absent some stated or necessarily implied reference to the germaneness or other rule (June 25, 1987, p. ——). The burden of proof is on the proponent of an amendment to establish its germaneness (VIII, 2995), and where an amendment is equally susceptible to more than one interpretation, one of which will render it not germane, the Chair will rule it out of order (June 20, 1975, p. 19967).

§795. Proposition to which amendment must be germane.

Under the later practice an amendment should be germane to the particular paragraph or section to which it is offered (V, 5811-5820; VIII, 2922, 2936; Oct. 14, 1971, pp. 36194, 36211; Sept. 19, 1986, p. ——) and an amendment inserting an additional section should be germane to the portion of the bill to which it is offered (V, 5822; VIII, 2927, 2931; July 14, 1970, pp. 24033-35) but it may be germane to more than one portion of a bill (March 27, 1974, pp. 8508-09), and when offered as a separate paragraph is not required to be germane to the paragraph immediately preceding or following it (VII, 1162; VIII, 2932-35). While it is a proper test of germaneness that instructions in a motion to recommit must be germane to the section of the bill to which offered (VIII, 2709), instructions inserting a new title at the end of a bill need only be germane to the bill as a whole (Sept. 19, 1986, p. ——). An amendment limiting the use of funds by a particular agency funded in a general appropriation bill may be offered while the paragraph carrying the funds is pending, or to any general provisions portion of the bill affecting that agency or all agencies funded by the bill (July 16, 1979, p. 18807). However, to a paragraph containing funds for an agency but not transferring funds to that account from other paragraphs in the bill, an amendment increasing that amount by transfer from an account in another paragraph is not germane, since affecting budget authority for a different agency not the subject of the pending paragraph (July 17, 1985, p. 19436). In passing on the germaneness of a~~n a~~mendment, the Chair considers the relationship between the amendment and the bill as modified by the Committee of the Whole (Apr. 23, 1975, p. 11545; July 8, 1987, p. ——). An amendment adding a new section to a bill being read by titles must be germane to the pending title (Sept. 17, 1975, p. 28925), but where a bill is considered as read and open to amendment at any point, an amendment must be germane to the bill as a whole and not to a particular section (Sept. 29, 1975, p. 30761; Jan. 30, 1986, p. ——). An amendment in the form of a new title, when offered at the end of a bill containing several diverse titles on a general subject, need not be germane to the portion of the bill to which offered, it being sufficient that the amendment be germane to the bill as a whole in its modified form (Nov. 4, 1971, p. 39267; July 2, 1974, p. 22029; Sept. 18, 1975, p. 29322; July 11, 1985, p. 18601-2; Oct. 8, 1985, p. 26548-51). While the heading of the final title of a bill as "miscellaneous" does not thereby permit amendments to that title which are not germane thereto, the inclusion of sufficiently diverse provisions in such title affecting various provisions in the bill may permit further amendments which need only be germane to the bill as a whole (Apr. 10, 1979, pp. 8034–7). Under clause 4, Rule XXVIII, a portion of a conference report incorporating part of a Senate amendment in the nature of a substitute to a House bill, or incorporating part of a Senate bill which the House has amended, must be germane to the bill in the form passed by the House; thus where a House-passed bill contained several sections and titles amending diverse portions of the Internal Revenue Code relating to tax credits, a modified Senate provision adding a new section dealing with another tax credit was held germane to the House-passed measure as a whole (Speaker Albert, Mar. 26, 1975, p. 8900); but a Senate provision in a conference report, on a Senate bill with a House amendment in the nature of a substitute, which authorized appointment of a special prosecutor for any criminal offenses committed by certain Federal officials was held not germane to the bill as passed by the House, which related to offenses directly related to official duties and responsibilities of Federal officials (Oct. 12, 1978, pp. 36459–61). The test of germaneness is the relationship between an amendment and the amendment in the nature of a substitute (or substitute therefor), to which it is offered and not between the amendment and the bill for which the amendment in the nature of a substitute has been offered (July 19, 1973, p. 24958; July 22, 1975, p. 23990; June 1, 1976, pp. 16051–6; July 28, 1982, pp. 18355–58, 18361), and an amendment to a substitute is not required to affect the same page and line numbers as the substitute in order to be germane, it being sufficient that the amendment is germane to the subject matter of the substitute (Aug. 1, 1979, pp. 21944–47). When an amendment in the nature of a substitute is offered at the end of the first section of a bill, the test of germaneness is the relationship between the amendment and the entire bill, and the germaneness of an amendment in the nature of a substitute for a bill is not necessarily determined by an incidental portion of the amendment which if offered separately might not be germane to the portion of the bill to which offered (July 8, 1975, p. 21633). An amendment germane to the bill as a whole, but hardly germane to any one section, may be offered at an appropriate place with notice of motions to strike out the following sections which it would supercede (V, 5823; July 29, 1969, p. 21221). As to motions to strike, where a perfecting amendment to the text is offered pending a vote on a motion to strike out the same text, the perfecting amendment must be germane to the text to which offered, not to the motion to strike out (Oct. 3, 1969, p. 28454).

§796. Instructions to committees and amendments thereto.

The rule that amendments must be germane applies to the instructions in a motion to instruct conferees (VIII, 3230, 3235), and the test of an amendment to a motion to instruct conferees is the relationship of the amendment to the subject matter of the House or Senate version of the bill (Oct. 31, 1939, p. 1092). The rule of germaneness similarly applies to the instructions in a motion to recommit a bill to a committee of the House, as it is not in order to propose as part of a motion to recommit any proposition which would not have been germane if proposed as an amendment to the bill in the House (V, 5529–5541; VIII, 2708–2712; Mar. 2, 1967, p. 5155), and the instructions must be germane to the bill as perfected in the House (Mar. 22, 1949, p. 2936), even where the instructions do not propose a direct amendment to the bill but merely direct the committee to pursue an unrelated approach (Speaker O'Neill, Mar. 2, 1978, p. 5272) or direct the committee not to report the bill back to the House until an unrelated contingency occurs (VIII, 2704). Under the same rationale as amendments to a motion to instruct conferees, amendments to a motion to recommit to a standing committee with instructions must be germane to the subject matter of the bill (see V, 6888; VIII, 2711).

The fact that an amendment is offered in conjunction with a motion to recommit a bill with instructions to a standing committee does not affect the requirement that the subject matter of the amendment be germane and within the jurisdiction of the committee reporting the bill (Mar. 2, 1967, p. 5155).

§797. Senate amendments and matter contained in conference reports.

In the consideration of Senate amendments to a House bill an amendment must be germane to the particular Senate amendment to which it is offered (V, 6188–6191; VIII, 2936; May 14, 1963, p. 8506; Dec. 13, 1980, p. 34097), and it is not sufficient that an amendment to a Senate amendment is germane to the original House bill if it is not germane to the subject matter of a Senate amendment which merely inserts new matter and does not strike out House provisions (V, 6188; VIII, 2936). But where a Senate amendment proposes to strike out language in a House bill, the test of the germaneness of a motion to recede and concur with an amendment is the relationship between the language in the motion and the provisions in the House bill proposed to be stricken, as well as those to be inserted, by the Senate amendment (Dec. 12, 1974, pp. 39272–73). The test of the germaneness of an amendment to a motion to concur in a Senate amendment with an amendment is the relationship between the amendment and the motion, and not between the amendment and the Senate amendment to which the motion has been offered (Aug. 3, 1973, p. 28122). Formerly, a Senate amendment was not subject to the point of order that it was not germane to the House bill (VIII, 3425), but under recent changes in the rules points of order may be made and separate votes demanded on portions of Senate amendments and conference reports containing language which would not have been germane if offered in the House. Clause 4, Rule XXVIII permits points of order against language in a conference report which was originally in the Senate bill or amendment and which would not have been germane if offered to the House-passed version, and permits a separate motion to reject such portion of the conference report if found non-germane. (Oct. 15, 1986, p. ——). For purposes of that rule, the House-passed version, against which Senate provisions are compared, is that finally committed to conference, taking into consideration all amendments adopted by the House, including House amendments to Senate amendments (July 28, 1983, p. ——). Clause 5, Rule XXVIII permits points of order against motions to concur or concur with amendment in non-germane Senate amendments, the stage of disagreement having been reached, and, if such points of order are sustained, permits separate motions to reject such non-germane matter. Cl. 5, Rule XXVIII is not applicable to a provision contained in a motion to recede and concur with an amendment (the stage of disagreement having been reached) which is not contained in any form in the Senate version, the only requirement in such circumstances being that the motion as a whole be germane to the Senate amendment as a whole under clause 7, Rule XVI (Oct. 4, 1978, pp. 33502–6; June 30, 1987, p. ——).

§798a. Subject matter as test of germaneness.

An amendment must relate to the subject matter under consideration: to a bill seeking to eliminate wage discrimination based on the sex of the employee, an amendment to make the provisions of the bill applicable to discrimination based on race was ruled out as not germane (July 25, 1962, p. 14778). To a bill authorizing military assistance to Israel and funds for the United Nations Emergency Force in the Middle East, an amendment expressing the sense of Congress that the President conduct negotiations to obtain a peace treaty in the Middle East and the resumption of diplomatic and trade relations between Arab nations and the U.S. and Israel was held not germane (Dec. 11, 1973, pp. 40842–3). To a concurrent resolution expressing Congressional concern over certain domestic policies of a foreign government and urging that government to improve those internal problems in order to enhance better relations with the United States, amendments expressing the necessity for U.S. diplomatic initiatives as a consequence of that foreign government's policies are not germane (July 12, 1978, pp. 20500–5). But to a proposition directing a feasibility investigation, an amendment requiring the submission of legislation to implement that investigation is germane (Dec. 14, 1973, pp. 41747–8). To a resolution amending several clauses of a rule of the House but confined in its scope to the issue of access to committee hearings and meetings, an amendment to another clause of that rule relating to committee staffing was held not germane (Mar. 7, 1973, p. 6714). But to an amendment in the nature of a substitute comprehensively amending several sections of the Clean Air Act with respect to the impact of the shortages of energy resources upon standards imposed under that Act, an amendment to another section of that Act suspending for a temporary period the authority of the Administrator of the E.P.A. to control automobile emissions was held germane (Dec. 14, 1973, pp. 41688–9), and to a section of a bill prescribing the functions of a new Federal Energy Administration by conferring wide discretionary powers upon the Administrator, an amendment directing the Administrator to issue preliminary summer guidelines for citizen fuel use was held germane as a further delineation of those functions (Mar. 6, 1974, pp. 5436–7); however, to a title of a bill which only addresses the administrative structure of a new department and not its authority to carry out transferred programs, an amendment prohibiting the department from withholding funds to carry out certain objectives is not germane (June 12, 1979, pp. 14485–6). To an amendment authorizing the use of funds for a specific study, an amendment naming any program established in the bill for an unrelated purpose for a specified Senator was held not germane (Aug. 15, 1986, p. ——).

An amendment which is germane, not being "on a subject different from that under consideration," belongs to a class illustrated by the following: To a bill providing for an interoceanic canal by one route, an amendment providing for a different route (V, 5909); to a bill providing for the reorganization of the Army, an amendment providing for the encouragement of marksmanship (V, 5910); to a proposition to create a board of inquiry, an amendment specifying when it shall report (V, 5915); to a bill relating to "oleomargarine and other imitation dairy products," an amendment on the subject of "renovated butter" (V, 5919); to a resolution rescinding an order for final adjournment, an amendment fixing a new date therefor (V, 5920).

§798b. Fundamental purpose as test of germaneness.

Whether or not an amendment is germane should be judged from the provisions of its text rather than from the motives which circumstances may suggest (V, 5783, 5803; Dec. 13, 1973, pp. 41267–9; Aug. 15, 1974, pp. 28438–9). Thus an amendment which does relate to the subject matter of the bill is not subject to challenge solely on the basis that it may be characterized as private legislation benefitting certain individuals, offered to a public bill (May 3, 1984, p. ——). The fundamental purpose of an amendment must be germane to the fundamental purpose of the bill (VIII, 2911). Thus for a bill proposing to accomplish a result by methods comprehensive in scope, a committee amendment in the nature of a substitute seeking to achieve the same result was held germane where it was shown that additional provisions not contained in the original bill were merely incidental conditions or exceptions which were related to the fundamental purpose of the bill (Aug. 2, 1973, pp. 27673–5; July 8, 1975, p. 21633; Sept. 29, 1980, pp. 27832–52). But to a bill relating to one government agency, an amendment having as its fundamental purpose a change in the law relating to another agency was held not germane even though it contemplated a consultative role for the agency covered by the bill (July 8, 1987, p. ——).

In order to be germane, an amendment must not only have the same end as the matter sought to be amended, but must contemplate a method of achieving that end that is closely allied to the method encompassed in the bill or other matter sought to be amended (Aug. 11, 1970, p. 28165). Thus to a proposition to accomplish a result through regulation by a governmental agency, an amendment to accomplish the same fundamental purpose through regulation by another governmental agency was held germane (Dec. 15, 1937, pp. 1572–89; June 9, 1941, p. 4905; Dec. 19, 1973, pp. 42618–9); to a bill to achieve a certain purpose by conferring discretionary authority to set fair labor standards upon an independent agency, an amendment in the nature of a substitute to attain that purpose by a more inflexible method (prescribing fair labor standards) was held germane (Dec. 15, 1937, pp. 1590–94; Oct. 14, 1987, p. ——); to a proposition to accomplish the broad purpose of settling land claims of Alaska natives by a method general in scope, an amendment accomplishing the same purpose by a method more detailed in its provisions was held germane (Oct. 20, 1971, p. 37079); to an amendment comprehensively amending the Natural Gas Act to de-regulate interstate sales of new natural gas and regulate aspects of intrastate gas use, a substitute providing regulatory authority for interstate and intrastate gas sales of large producers was held germane (Feb. 4, 1976, p. 2387); to a bill providing a temporary extension of existing authority, an amendment achieving the same purpose by providing a nominally permanent authority was held germane where both the bill and the amendment were based on reported economic projections under which either would achieve the same, necessarily temporary result by method of direct or indirect amendment to the same existing law (May 13, 1987, p. ——); and to a bill subjecting employers who fail to apprise their workers of health risks to penalties under other laws and regulations, a substitute subjecting such employers to penalties prescribed in the substitute itself was held germane (Oct. 14, 1987, p. ——).

However, an amendment to accomplish a similar purpose by an unrelated method, not contemplated by the bill, is not germane. Thus, to a bill to aid in the control of crime through research and training an amendment to accomplish that result through regulation of the sale of firearms was held not germane (Aug. 8, 1967, pp. 21846–50); to a bill providing relief to foreign countries through government agencies, an amendment providing for relief to be made through the International Red Cross was held not germane (Dec. 10, 1947, pp. 11242–44); and to a bill conserving energy by civil penalties on manufacturers of autos with low gas mileage, an amendment conserving energy by tax rebates to purchasers of high-mileage autos was held not germane (June 12, 1975, p. 18695). To a bill authorizing financial assistance to unemployed individuals for employment opportunities, an amendment providing instead for tax incentives to stimulate employment involves an unrelated method within the jurisdiction of a different committee of the House (Sept. 21, 1983, p. ——); to an amendment to achieve a national production goal for synthetic fuels for national defense needs by loans and grants and development of demonstration synthetic fuel plants, a substitute to require by regulation that any fuel sold in commerce require a certain percentage of synthetic fuels was held not germane, as broader in scope and an unrelated method (June 26, 1979, pp. 16663–74); to a proposition whose fundamental purpose was registration and public disclosure by, but not regulation of the activities of, lobbyists, amendments prohibiting lobbying in certain places, restricting monetary contributions by lobbyists, and providing civil penalties for violating rules of the House in relation to floor privileges, were held not germane (Sept. 28, 1976, pp. 33070–1), but to a similar bill, an amendment requiring disclosure of any lobbying communication made on the floor of the House or Senate or in adjoining rooms, but not regulating such conduct, was held germane (Apr. 26, 1978, pp. 11641–2); to a bill providing assistance to Vietnam war victims, amendments containing foreign policy declarations as to culpability in the Vietnam war were held not germane (Apr. 23, 1975, p. 11510); to a bill authorizing foreign military assistance programs, an amendment authorizing contributions to an international agency for nuclear missile inspections was held not germane (Mar. 3, 1976, p. 5226); and to a bill seeking to accomplish a purpose by one method (creation of an executive branch agency), an amendment accomplishing that result by a method not contemplated in the bill (creation of office within Legislative Branch as function of committee oversight) was ruled not germane (Nov. 5, 1975, p. 35041). A motion to recommit a joint resolution, proposing a constitutional amendment for representation of the District of Columbia in Congress, with instructions that the Committee on the Judiciary consider a resolution retroceding populated portions of the District to Maryland, was held not germane (Speaker O'Neill, Mar. 2, 1978, p. 5272). To a bill raising revenue by several methods of taxation the Committee of the Whole, overruling the Chair, held that an amendment proposing a tax on undistributed profits was germane (VII, 3042). To a bill to provide financial assistance to domestic agriculture through price support payments, an amendment to protect domestic agriculture by restricting imports in competition therewith was not germane as proposing an unrelated method of assistance within the jurisdiction of another committee (Oct. 14, 1981, p. 23899). It is not germane to change a direct appropriation of new budget authority from the general fund into a reappropriation (in effect a rescission) of funds previously appropriated for an entirely different purpose in a special reserve account (Feb. 28, 1985, p 4146).

§ 798c. Committee jurisdiction as test of germaneness.

An amendment when considered as a whole should be within the jurisdiction of the committee reporting the bill, although committee jurisdiction over the subject of an amendment and of the original bill is not the exclusive test of germaneness (Aug. 2, 1973, pp. 27673–5), and the Chair relates the amendment to the bill in its perfected form (Aug. 17, 1972, p. 28913). To a bill reported from the Committee on Agriculture providing price support programs for various agricultural commodities, an amendment repealing price control authority for all commodities under an act reported from the Committee on Banking and Currency is not germane (July 19, 1973, pp. 24950–51). To a bill reported from the Committee on Ways and Means providing for a temporary increase in the public debt ceiling for the current fiscal year (not directly amending the Second Liberty Bond Act), an amendment proposing permanent changes in that act and also affecting budget and appropriation procedures (matters within the jurisdiction of other House committees) was held not germane (Nov. 7, 1973, pp. 36240–1). To a bill reported by the Committee on Government Operations creating an executive agency to protect consumers, an amendment conferring on Congressional committees with oversight over consumer protection the authority to intervene in judicial or administrative proceedings (a rule-making provision within the jurisdiction of the Committee on Rules) was ruled not germane (Nov. 6, 1975, p. 35373). Similarly, to a bill reported from the Committee on Government Operations creating a new department, transferring the administration of existing laws to it and authorizing appropriations to carry out the Act subject to provisions in existing law, an amendment prohibiting the use of funds so authorized to carry out a designated funding program transferred to the department is not necessarily germane, where the purpose of the authorization is to allow appropriations in general appropriation bills for the department to carry out its functions, but where changes in the laws to be administered by the department remain within the jurisdiction of other committees of the House (June 19, 1979, pp. 15570–1). To a bill reported by the Committee on Public Works authorizing funds for highway construction and mass transportation systems using motor vehicles, an amendment relating to urban mass transit (then within the jurisdiction of the Committee on Banking and Currency) and the railroad industry (within the jurisdiction of the Committee on Interstate and Foreign Commerce) was held not germane (Oct. 5, 1972, p. 34115). To a bill reported from the Committee on Science and Technology authorizing environmental research and development activities of an agency, an amendment expressing the sense of Congress with respect to that agency's regulatory and enforcement authority, within the jurisdiction of the Committee on Energy and Commerce, was held not germane (Feb. 9, 1984, p. ——); and to a bill authorizing environmental research and development activities of an agency for two years, an amendment adding permanent regulatory authority for that agency by amending a law not within the jurisdiction of the committee reporting the bill was held not germane (June 4, 1987, p. ——). To a bill reported from the Committee on Armed Services amending several laws within that committee's jurisdiction on military procurement and policy, an amendment to the Renegotiation Act, a matter within the jurisdiction of the Committee on Banking, Finance and Urban Affairs and not solely related to military contracts was held not germane (June 26, 1985, p. 17417–9), as was an amendment requiring reports on Soviet Union compliance with arms control commitments, a matter exclusively within the jurisdiction of the Committee on Foreign Affairs (June 27, 1985, p. 17810). To a bill reported from the Committee on Energy and Commerce relating to mentally ill individuals, an amendment prohibiting the use of General Revenue Sharing funds (within the jurisdiction of the Committee on Government Operations) was held not germane (Jan. 30, 1986, p. ——. To a bill reported from the Committee on Merchant Marine and Fisheries authorizing various activities of the Coast Guard, an amendment urging the Secretary of State in consultation with the Coast Guard to elicit cooperation from other nations concerning certain Coast Guard and military operations (a matter within the jurisdiction of the Committee on Foreign Affairs) was held not germane (July 8, 1987, p. ——).

Committee jurisdiction is not the sole test of germaneness where the proposition to which the amendment is offered is so comprehensive (overlapping several committees' jurisdictions) as to diminish the pertinency of that test and the amendment as offered does not demonstrably affect a law within another committee's jurisdiction (July 21, 1976, pp. 23167-8; Oct. 8, 1985, p. 26548-51), or where the portion of the bill also contains language, related to the amendment, not within the jurisdiction of the committee reporting the bill (Apr. 2, 1976, p. 9254; Aug. 10, 1984, p. ——), or where the bill has been amended to include matter within the jurisdiction of another committee, thus permitting further similar amendments to be germane (July 11, 1985, p. 18601-2), or where if offered as a new final title the bill as a whole and as amended contains matters within another committee's jurisdiction (Sept. 19, 1986, p. ——). To a bill reported from the Committee on Agriculture relating to the food stamp program, an amendment requiring the collection from certain recipients of the money value of food stamps received, by the Secretary of the Treasury after consultation with the Secretary of Agriculture, was held germane since the performance of new duties by the Secretary of the Treasury and by the Internal Revenue Service, which do not affect the application of the Internal Revenue Code, is not a matter solely within the jurisdiction of the Committee on Ways and Means (July 27, 1977, pp. 25249-52).

But committee jurisdiction is a relevant test where the pending text is entirely within one committee's jurisdiction and where the amendment falls within another committee's purview (Jan. 29, 1976, p. 1582; July 25, 1979, pp. 20601-3; June 27, 1985, p. 17417-9). Thus to a bill reported from the Committee on Armed Services authorizing military procurement and personnel strengths for one fiscal year, a proposition imposing permanent prohibitions and conditions on troop withdrawals from the Republic of Korea was held not germane since proposing permanent law to a one-year authorization and including statements of policy within the jurisdiction of the Committee on Foreign Affairs (May 24, 1978, pp. 15293-5); and to a bill reported from the Committee on Interior and Insular Affairs designating certain areas in a State as wilderness, an amendment providing unemployment benefits to workers displaced by the designation was held not germane (Mar. 21, 1983, p. 6347); and to a bill reported from the Committee on Education and Labor dealing with education, an amendment regulating telephone communications (a matter within the jurisdiction of the Committee on Energy and Commerce) was held not germane (Apr. 19, 1988, p. ——).

In a conference report on a House bill reported from the Committee on Public Works and Transportation, authorizing funds for local public works employment, a Senate amendment to mandate expenditure of already appropriated funds (as a purported disapproval of deferral of such funds under the Impoundment Control Act) and to set discount rates for reclamation and public works projects, subjects within the jurisdictions of the Committees on Appropriations and Interior and Insular Affairs, was held not germane (Speaker O'Neill, May 3, 1977, pp. 13242–3).

But where the pending bill incorporates by reference provisions of a law from another committee and conditions the bill's effectiveness upon actions taken pursuant to a section of that law, an amendment to alter that section of the law may be germane (Apr. 8, 1974, pp. 10108–10). And the test of the germaneness of an amendment in the nature of a substitute for a bill is its relationship to the bill as a whole, and is not necessarily determined by the content of an incidental portion of the amendment which, if considered separately, might be within the jurisdiction of another committee (Aug. 2, 1973, p. 27673; June 1, 1976, pp. 16021–5). However, the House may by adopting a special rule allow a point of order that a section of a committee amendment in the nature of a substitute would not have been germane if offered separately to the bill as introduced (May 23 and 24, 1978, pp. 15094–6 and 15293–5; Aug. 11, 1978, p. 25705).

The fact that an amendment is offered in conjunction with a motion to recommit a bill with instructions does not affect the requirement that the subject matter of the amendment be germane and within the jurisdiction of the committee reporting the bill (Mar. 2, 1967, p. 5155).

§ 798d. Various tests of germaneness are not exclusive.

The standards by which the germaneness of an amendment may be measured, as set forth in §§ 798a–c, supra, are not exclusive; an amendment and the matter to which offered may be related to some degree under the tests of subject matter, purpose, and jurisdiction, and still not be considered germane under the precedents. Thus, the following have been held not to be germane: To a proposition relating to the terms of Senators, an amendment changing the manner of their election (V, 5882); to a bill relating to commerce between the States, an amendment relating to commerce within the several States (V, 5841); to a proposition to relieve destitute citizens of the United States in Cuba, a proposition declaring a state of war in Cuba and proclaiming neutrality (V, 5897); to a proposition for the appointment of a select committee to investigate a certain subject, an amendment proposing an inquiry of the Executive on that subject (V, 5891); to a bill granting a right of way to a railroad, an amendment providing for the purchase of the railroad by the Government (V, 5887); to a provision for the erection of a building for a mint, an amendment to change the coinage laws (V, 5884); to a resolution proposing expulsion, an amendment proposing censure (VI, 236); to a resolution authorizing the administration of the oath to a Member-elect, an amendment authorizing such oath administration but adding several conditions of punishment predicated on acts committed in a prior Congress (Jan. 3, 1969, pp. 23–25); to a general tariff bill, an amendment creating a tariff board (Chairman Garrett of Tennessee, May 6, 1913, p. 1234; also Speaker Clark, May 8, 1913, p. 1381); to a proposition to sell two battleships and build a new battleship with the proceeds, a proposition to devote the proceeds to building wagon roads (VIII, 2973).

§ 798e. One individual proposition not germane to another.

One individual proposition may not be amended by another individual proposition even though the two belong to the same class (VIII, 2951–2953, 2963–2966, 3047; Jan. 29, 1986, p. ——). Thus, the following are not germane: To a bill proposing the admission of one Territory into the Union, an amendment for admission of another Territory (V, 5529); to a bill amending a law in one particular, amending the law in another particular (VIII, 2949); to a proposition to appropriate or to authorize appropriations for only one year (and containing no provisions extending beyond that year), an amendment to extend the authorization or appropriation to another year is not germane (VIII, 2913; Nov. 13, 1980, pp. 29523–8; see also May 2, 1979, p. 9564; Oct. 12, 1979, pp. 28097–9); to a bill for the relief of one individual, an amendment proposing similar relief for another (V, 5826–5829); to a resolution providing a special order for one bill, an amendment to include another bill (V, 5834–5836); to a provision for extermination of the cotton-boll weevil, an amendment including the gypsy moth (V, 5832); to a provision for a clerk for one committee, an amendment for a clerk to another committee (V, 5833); to a bill prohibiting transportation of messages relative to dealing in cotton futures, an amendment adding wheat, corn, etc. (VIII, 3001); to a bill prohibiting cotton futures, an amendment prohibiting wheat futures (VIII, 3001); to a bill for the relief of certain aliens, an amendment for the relief of other persons who are not aliens (May 14, 1975, p. 14360); to a bill providing relief for agricultural producers, an amendment extending such relief to commercial fishermen, another class within the jurisdiction of another committee (Apr. 24, 1978, pp. 11080–1); to a bill governing the political activities of federal civilian employees, an amendment to cover members of the uniformed services (June 7, 1977, pp. 17713–4), to a bill covering the civil service system for federal civilian employees, an amendment bringing other classes of employees (postal and District of Columbia employees) within the scope of the bill (Sept. 7, 1978, pp. 28437–9; Oct. 9, 1985, p. 26951–4); and to a portion of an appropriation bill containing funds for a certain purpose to be expended by one agency, an amendment containing funds for another agency for the same purpose (July 24, 1981, p. 17226). To a bill prohibiting certain uses of polygraphy in the private sector, an amendment applying the terms of the bill to the Congress was held not germane (Nov. 4, 1987, p. ——). To a bill to determine the equitability of federal pay practices under statutory systems applicable to agencies of the executive branch, an amendment to extend the scope of the determination to pay practices in the legislative branch was held not germane by the Committee of the Whole, sustaining the ruling of the chair (Sept. 28, 1988, p. ——). To a special appropriation bill providing funds and authority for agricultural credit programs but containing no transfers of funds, reappropriations or rescissions, an amendment (contained in a motion to recommit) deriving funds for the bill by transfer of unobligated balances in the Energy Security Reserve was held not germane as decreasing and transferring funds provided for a program unrelated to the subject matter or method of funding provided in the bill (Feb. 28, 1985, p. 4146). To a bill prohibiting importation of goods "made in whole or in part by convict, pauper, or detained labor, or made in whole or in part from materials which have been made in whole or in part in any manner manipulated by convict or prison labor," an amendment prohibiting importation of goods by child labor was held not germane on the ground that labor described in bill constituted a single class of labor (VIII, 2963). Similarly, to an amendment authorizing grants to states for purchase of one class of equipment (photographic and fingerprint equipment) for law enforcement purposes, an amendment including assistance for the purchase of a different class of equipment (bulletproof vests) was held not germane (Oct. 12, 1979, pp. 28121–4). To a bill repealing section 14(b) of the National Labor Relations Act and making conforming changes in two related sections of labor law—all pertaining solely to the so-called "right-to-work" issue, an amendment excluding from the applicability of certain labor-management agreements members of religious groups, was ruled out as not germane (July 28, 1965, p. 18633). To a bill relating to the design of certain coin currency, an amendment specifying the metal content of other coin currency is not germane (Sept. 12, 1973, pp. 29376–7). And an amendment changing existing law to achieve one individual purpose is not germane to a proposition which does not amend that law and which seeks to accomplish another individual purpose (Dec. 14, 1973, pp. 41723–5). To a bill regulating poll closing time in Presidential general elections, an amendment extending its provisions to Presidential primary elections is not germane (Jan. 29, 1986, p. ——). To a bill authorizing grants to private entities furnishing health care to underserved populations, an amendment authorizing grants to States to control a public health hazard was held not germane as relating to a different category of recipient (Mar. 5, 1986, p. ——).

§ 798f. A general provision not germane to a specific subject.

A specific subject may not be amended by a provision general in nature, even when of the class of the specific subject (V, 5843–5846; VIII, 2997, 2998; July 31, 1985, p. 21832–4). (See also Procedure Ch. 28, § 8.) Thus the following are not germane: To a bill for the admission of one Territory into the Union, an amendment providing for the admission of several other Territories (V, 5837); to a bill relating to all corporations engaged in interstate commerce, an amendment relating to all corporations (V, 5842); to a bill modifying an existing law as to one specific particular, an amendment relating to the terms of the law other than those dealt with by the bill (V, 5806–5808); to a bill amending the war-time prohibition act in one particular, an amendment repealing that act (VIII, 2949); to a bill proscribing certain picketing in the District of Columbia, an amendment making the provisions thereof applicable throughout the United States (Aug. 22, 1966, p. 20113); to a bill dealing with enforcement of United Nations sanctions against one country in relation to a specific trade commodity, an amendment imposing United States sanctions against all countries for all commodities and communications (Mar. 14, 1977, pp. 7446–7), and to a bill authorizing funds for radio broadcasting to Cuba, an amendment broadening the bill to include broadcasting to all Dictatorships in the Caribbean Basin (Aug. 10, 1982, pp. 20256, 20257). A bill dealing with an individual proposition but rendered general in its scope by amendment is then subject to further amendment by propositions of the same class (VIII, 3003). While a specific proposition covering a defined class may not be amended by a proposition more general in scope, the Chair may consider all pending provisions being read for amendment in determining the generality of the class covered by that proposition (Jan. 30, 1986, p. ——). To a bill limited in its applicability to certain departments and agencies of government, an amendment applicable to all departments and agencies is not germane (Sept. 27, 1967, p. 26957). To a proposition authorizing activities of certain government agencies for a temporary period, an amendment permanently changing existing law to cover a broader range of government activities is not germane (May 5, 1988, p. ——). To a proposition temporarily suspending certain requirements of the Clean Air Act, an amendment temporarily suspending other requirements of all other environmental protection laws was held not germane (Dec. 14, 1973, pp. 41751–2). To a joint resolution proposing an amendment to the Constitution prohibiting the U.S. or any state from denying persons 18 years of age or older the right to vote, an amendment requiring the U.S. and all states to treat persons 18 years and older as having reached the age of majority for all purposes under the law was ruled out as not germane (Mar. 23, 1971, p. 7567). To a bill to enable the Department of HEW to investigate and prosecute fraud and abuse in medicare and medicaid health programs, a committee amendment to prohibit any officer or employee from disclosing any identifiable medical record absent patient approval was held not germane (Sept. 23, 1977, pp. 30534-5). To an amendment to a budget resolution changing one functional category only, an amendment changing several other categories as well as that category, and covering an additional fiscal year, is not germane (May 2, 1979, pp. 9556-64). For an amendment striking from a bill one activity from those covered by the law being amended, a substitute striking out the entire subsection of the bill, thereby eliminating the applicability of existing law to a number of activities, is not germane (Sept. 23, 1982, p. 24963-4). To a bill relating to aircraft altitude over units of the national park system, an amendment relating to aircraft collision avoidance generally is not germane (Sept. 18, 1986, p. ——). To a Senate amendment prohibiting the use of funds appropriated for a fiscal year for a specified purpose, a proposed House amendment prohibiting the use of funds appropriated for that or any prior fiscal year for an unrelated purpose is not germane (June 30, 1987, p. ——). To a Senate amendment providing for a training vessel for one state maritime academy, a proposed House amendment relating to training vessels for all state maritime academies is not germane (June 30, 1987, p. ——). To a bill amending an existing law to authorize a program, an amendment restricting authorizations under that or any other act is beyond the scope of the bill and not germane (Dec. 10, 1987, p. ——). To a proposition waiving a requirement in existing law that an authorizing law be enacted prior to the obligation of certain funds, an amendment affirmatively enacting bills containing not only that authorization but also other policy matters is not germane as beyond the issue of funding availability (Sept. 28, 1988, p. ——). To a proposition pertaining only to a certain appropriation account in a bill, an amendment relating not only to that account but also to funds in other acts is more general in scope and therefore not germane (Sept. 30, 1988, p. ——).

§ 798g. Specific subjects germane to general propositions of the class.

A general subject may be amended by specific propositions of the same class (VIII, 3002, 3009, 3012). (See also Procedure Ch. 28, § 9.) Thus, the following have been held to be germane: To a bill admitting several Territories into the Union, an amendment adding another Territory (V, 5838); to a bill providing for the construction of buildings in each of two cities, an amendment providing for similar buildings in several other cities (V, 5840); to a resolution embodying two distinct phases of international relationship, an amendment embodying a third (V, 5839); and to an amendment prohibiting indirect assistance to several countries, an amendment to include additional countries within that prohibition (Aug. 3, 1978, p. 24244; to a portion of a bill providing two categories of economic assistance to foreign countries, an amendment adding a further specific category is germane (Apr. 9, 1979, pp. 7755-7). And where a bill seeks to accomplish a general purpose (support of arts and humanities) by diverse methods, an amendment which adds a specific method to accomplish that result (artist employment through

National Endowment for Arts) may be germane (Apr. 26, 1976, p. 11101; see also June 12, 1979, p. 14460). But to a resolution authorizing a class of employees in the service of the House, an amendment providing for the employment of a specified individual was held not to be germane (V, 5848–5849). To a proposition relating in many diverse respects to the political rights of the people of the District of Columbia, an amendment conferring upon that electorate the additional right of electing a nonvoting Delegate to the Senate was held germane (Oct. 10, 1973, pp. 33656–7). To a bill bringing two new categories within the coverage of existing law, an amendment to include a third category of the same class was held germane (Nov. 27, 1967, p. 33769). To a bill containing definitions of several of the terms used therein, an amendment modifying one of the definitions and adding another may be germane (Sept. 26, 1967, p. 26878). To a bill authorizing a broad program of research and development, an amendment directing specific emphasis in the administration of the program is germane (Dec. 19, 1973, p. 42607). To a bill providing for investigation of relationships between environmental pollution and cancer, an amendment to investigate the impact of personal health habits, as cigarette smoking, on that relationship was held germane (Sept. 15, 1976, pp. 30496–8). To a supplemental appropriation bill containing funds for several departments and agencies, an amendment in the form of a new chapter providing funds for capital outlays for subway construction in the District of Columbia was held germane (May 11, 1971, p. 14437). To a proposal authorizing military procurement, including purchase of food supplies, an amendment authorizing establishment that fiscal year of a military preparedness grain reserve was held germane as a more specific authorization (July 20, 1982, pp. 17073, 17074, 17092, 17093). To a Senate amendment providing for prepayment of loans by those within a certain class of borrowers who meet a specified criterion, a proposed House amendment eliminating the criterion to broaden the applicability of the Senate amendment to additional borrowers within the same class was held germane (June 30, 1987, p. ——).

§ 799. Amendments to bills amending existing law.

To a bill amending a general law on a specific point an amendment relating to the terms of the law rather than to those of the bill was ruled not to be germane (V, 5808; VIII, 2707, 2708); thus a bill amending several sections of one title of the United States Code does not necessarily bring the entire title under consideration so as to permit an amendment to any portion thereof (Oct. 11, 1967, p. 28649), and where a bill amends existing law in one narrrow particular, an amendment proposing to modify such existing law in other particulars will generally be ruled out as not germane (Aug. 16, 1967, p. 22768; VIII, 2709, 2839, 3013, 3031; May 12, 1976, p. 13532). To a bill narrowly amending an anti-discrimination provision in the Education Amendments of 1972 only to clarify the definition of a discriminating entity subject to the statutory penalties (denial of federal funding), amendments re-defining a class of discrimination (sex), expanding the definition of persons who are the subject of discrimination (to include the unborn), and deeming a new entity (Congress) to be a recipient of federal assistance (a class not necessarily covered by the class covered by the bill), were ruled not to be germane (June 26, 1984, p. ——, p. ——, and p. ——). But to the same bill, an amendment merely defining a word used in the bill was held germane (June 26, 1984, p. ——). Unless a bill so extensively amends existing law as to open up the entire law to amendment, the germaneness of an amendment to the bill depends on its relationship to the subject of the bill and not to the entire law being amended (Oct. 28, 1975, p. 34031). But a bill amending several sections of an existing law may be sufficiently broad to permit amendments which are germane to other sections of that law not mentioned in the bill (Feb. 19, 1975, p. 3596; Sept. 14, 1978, pp. 29487-8). To a bill continuing and re-enacting an existing law amendments germane to the existing act sought to be continued have been held germane to the pending bill (VIII, 2940, 2941, 2950, 3028; Oct. 31, 1963, p. 20728; June 1, 1976, pp. 16045-6); but where a bill merely extends an official's authority under existing law, an amendment permanently amending that law has been held not in order (Sept. 29, 1969, pp. 27341-43). Thus where a bill authorized appropriations to an agency for one year but did not amend the organic law by extending the existence of that agency, an amendment extending the life of another entity mentioned in the organic law was held not germane (May 20, 1976, pp. 14912-3). An amendment making permanent changes in the law relating to organization of an agency is not germane to a title of a bill only authorizing appropriations for such agency for one fiscal year (Nov. 29, 1979, p. 34090); to a general appropriation bill providing funds for one fiscal year, an amendment changing a permanent appropriation in existing law and changing Congressional procedures for consideration of that general appropriation bill in future years is more general in scope and in part within the jurisdiction of the Committee on Rules and therefore is not germane (June 29, 1987, p. ——); and to a temporary authorization bill prescribing the use of an agency's funds for two years but not amending permanent law, an amendment permanently changing the organic law governing that agency's operations is not germane (Dec. 2, 1982, pp. 28537-8, 25465); However, to a bill authorizing appropriations for a department for one fiscal year, where the effect of the department's activities pursuant to that authorization may extend beyond such year, an amendment directing a specific use of those funds to perform an activity which may not be completed within the fiscal year was nevertheless germane, since limited to funds in the bill (Oct. 18, 1979, pp. 28763-4). Similarly, to a one-year authorization bill containing diverse limitations and directions to the agency in question during such year, an amendment further directing the agency to obtain information from the private sector, and to make such information public during such year, was held germane (Oct. 18, 1979, pp. 28815-7). While an amendment making a permanent change in existing law has been held not germane to a bill proposing a temporary change in that law, where it is apparent that the fundamental purpose of the amendment is to have only temporary effect and to accomplish the same result as the bill it may be germane. Thus to a bill providing a temporary extension of existing authority, an amendment achieving the same purpose by providing a nominally permanent authority was held germane where both the bill and the amendment were based on reported economic projections under which either would achieve the same, necessarily temporary result by method of direct or indirect amendment to the same existing law (May 13, 1987, p. ——). However, to a proposal continuing the availability of appropriated funds and also imposing diverse legislative conditions upon the availability of appropriations, an amendment directly and permanently changing existing law as to the eligibility of recipients of funds was held to be nongermane (Dec. 10, 1981. pp, 30536-8). To a bill extending an existing law in modified form, an amendment proposing further modification of that law may be germane (Apr. 23, 1969, p. 10067; Feb. 19, 1975, p. 3596). But to a bill amending a law in one particular, an amendment repealing the law is not germane (Jan. 14, 1964, p. 423). To a bill amending a general law in several particulars, an amendment providing for the repeal of the whole law was held germane (V, 5824), but the bill amending the law must so vitally affect the whole law as to bring the entire act under consideration before the Chair will hold an amendment repealing the law or amending any section of the law germane to the bill (VIII, 2944; Apr. 2, 1924, p. 5437). Where a bill repeals a provision of law, an amendment modifying that provision rather than repealing it may be germane; but the modification must relate to the provision of law being repealed (Oct. 30, 1969, p. 32466; July 28, 1965, p. 18636). Generally to a bill amending one existing law, an amendment changing the provisions of another law or prohibiting assistance under any other law is not germane (May 11, 1976, p. 13419). To a bill amending the Bretton Woods Act in relation to the International Monetary Fund, an amendment prohibiting the alienation of gold to the IMF or to any other international organization or its agents was held not germane (July 27, 1976, pp. 24040-41). However, to a bill comprehensively amending several laws within the same class, an amendment further amending one of those laws on a subject within that class is germane (May 12, 1976, p. 13530). To a title of a bill dealing with a number of unrelated authorities of the Secretary of Agriculture, an amendment amending another act within the jurisdiction of the Committee on Agriculture to require the adoption of a minimum standard for the contents of ice cream was held germane since restricted to the authority of the Secretary of Agriculture (July 22, 1977, pp. 24558-70). But to a section of a bill amending a section of the National Labor Relations Act dealing with procedural rules governing labor elections and organizations, an amendment changing the same section of law to require promulgation of rules defining certain conduct as an unfair labor practice was held not germane, where neither the pending section nor the bill itself addressed the subject of unfair labor practices dealt with in another section of the law (Oct. 5, 1977, pp. 32507-8). To a bill narrowly amending one subsection of existing law dealing with one specific criminal activity, an amendment postponing the effective date of the entire section, affecting other criminal provisions and classes of persons as well as the one amended by the bill, or an amendment to another subsection of the law dealing with a related but separate prohibition was not germane (May 16, 1979, pp. 11470-2).

§800. Amendments imposing conditions, qualifications, and limitations.

Restrictions, qualifications, and limitations sought to be added by way of amendment must be germane to the provisions of the bill. Thus, to a bill authorizing the funding of a variety of programs which satisfy several stated requirements, in order to accomplish a general purpose, an amendment conditioning the availability of those funds upon implementation by their recipients of another program related to that general purpose is germane (June 18, 1973, pp. 20100-01); an amendment delaying operation of a proposed enactment pending an ascertainment of a fact is germane when the fact to be ascertained relates solely to the subject matter of the bill (VIII, 3029; Dec. 15, 1982, p. 30957-61); to a bill authorizing funds for military procurement and construction, an amendment declaring that none of the funds be used to carry out military operations in North Vietnam was held germane (Mar. 2, 1967, p. 5143). To a bill authorizing the insurance of vessels, an amendment denying such insurance to vessels charging exorbitant rates is germane (VIII, 3023), and to a bill authorizing changes in railroad rates, an amendment is germane which provides that such changes shall not include increases in rates (VIII, 3022). To a bill authorizing humanitarian and evacuation assistance to war refugees, an amendment making such authorization contingent on a report to Congress on costs of a portion of the evacuation program (but not requiring implementation of any new program) is germane (Apr. 23, 1975, p. 11529), and to a bill authorizing an agency to undertake certain activities, an amendment allowing Congress to disapprove regulations issued pursuant thereto is a germane restriction if the disapproval mechanism does not amend the rules or procedures of the House (May 4, 1976, p. 12348). An amendment proposing changes in the Rules of the House by providing a privileged procedure for expedited review of an agency's regulations is not germane to a proposition not containing such changes (Aug. 13, 1982, pp. 20969, 20975-78). To a title of a bill limiting in several respects an official's authority to construe legal authorities transferred to him in the bill, an amendment further restricting his authority to construe under any circumstances certain other laws to be administered by him was held germane as an additional, although more restrictive, curtailment of existing authorities transferred by the bill (June 11, 1979, pp. 14226-38). But it is not in order to amend a bill to delay the effectiveness of the legislation pending an unrelated contingency (VIII, 3035, 3037), such as the enactment of state legislation (June 29, 1967, p. 17921). Thus an amendment delaying the bill's effectiveness or availability of authorizations pending unrelated determinations involving agencies and committee jurisdictions not within the purview of the bill is not germane (Feb. 7, 1973, pp. 3708-09; July 8, 9, 1981, pp. 15010, 15218), and to a bill authorizing military assistance to Israel and funds for a U.N. Emergency Force in the Middle East, an amendment postponing the availability of funds to Israel until the President certifies the existence of a designated level of domestic energy supplies is not germane (Dec. 11, 1973, p. 40837). An amendment conditioning the availability of funds to certain recipients based upon their compliance with Federal law not otherwise applicable to them and within the jurisdiction of other House committees may be ruled out as not germane (conditioning defense funds for procurement contracts with foreign contractors on their compliance with domestic law regarding discrimination) (June 16, 1983, p. ——). An amendment delaying the availability of an appropriation pending the enactment of certain revenue legislation into law is an unrelated contingency and is not germane (Oct. 25, 1979, pp. 29639-40). However, an amendment to an authorization bill which conditions the expenditure of funds covered by the bill by restricting their availability during months in which there is an increase in the public debt may be germane as long as the amendment does not directly affect other provisions of law or impose contingencies predicated upon other unrelated actions of Congress (Sept. 25, 1979, pp. 26150-52), and an amendment proposing a conditional restriction on the availability of funds to carry out an activity, which merely requires observation of similar activities of another country, which similar conduct already constitutes the policy basis for the funding of that governmental activity, may be germane as a related contingency (May 16, 1984, p. ——). Likewise, an amendment which conditions the obligation or expenditure of funds authorized in the bill by adopting as a measure of their availability the expenditure during the fiscal year of a comparable percentage of funds authorized by other acts is germane as long as the amendment does not directly affect the use of other funds (July 26, 1973, p. 26210). Similarly, to a bill authorizing certain housing programs, an amendment restricting the amounts of direct spending in the bill to the levels set in the concurrent resolution on the budget was held germane as merely a measure of availability of funds in the bill and not a provision directly affecting the Congressional budget process (June 11, 1987, p. ——). To a bill requiring that a certain percentage of autos sold in the U.S. be manufactured domestically, and imposing an import restriction for autos on persons violating that requirement, an amendment waiving those restrictions with respect to a foreign nation where the President has issued a proclamation that that nation is not imposing unfair import restrictions on any U.S. product was held to be a non-germane and unrelated contingency, dealing with overall trade issues rather than domestic content requirement for autos sold in the U.S. (Nov. 2, 1983, p. ——). But an amendment to the same bill prohibiting its implementation if resulting in U.S. violation to resolve conflicts under those agreements, was held germane since the bill already comprehensively addressed those subject matters by "disclaiming" any purpose to amend international agreements or to confer court jurisdiction relative thereto, and by conferring court jurisdiction over adjudication of penalties assessed under the bill (Nov. 2, 1983, p. ——). To a bill regulating immigration, an amendment providing that the operation of the act should not conflict with an agreement with Japan is not germane (VIII, 3050), to a bill proposing relief for women and children in Germany, an amendment delaying the effectiveness of such relief until a soldier's compensation act shall have been enacted is not germane (VIII, 3035), and to a bill authorizing radio broadcasting to Cuba, an amendment prohibiting the use of those funds until Congress has considered a Constitutional Amendment mandating a balanced budget is not germane (Aug. 10, 1982, p. 20250). To a proposition conditioning the availability of funds upon the enactment of an authorizing statute for the enforcing agency, a substitute conditioning the availability of some of those funds upon a prohibition of certain imports into the U.S. is not germane, a contingency unrelated to that to which offered (Nov. 7, 1985, p. 30984-5). It is not germane to condition assistance to a particular class of recipient covered by the bill upon an unrelated contingency such as action or inaction by another class of recipient or agent not covered by the bill (Mar. 5, 1986, p. ——). However, while a bill relating to benefits based on indemnification of liability arising out of an activity does not ordinarily admit as germane amendments relating to regulation of that activity, an amendment conditioning benefits upon agreement by its recipient to be governed by certain safety regulations may be germane if related to the activity giving rise to the liability (July 28, 1987, p. ——).

While it may be in order on a general appropriation bill to delay the availability of certain funds therein if the contingency does not impose new duties on executive officials, the contingency must be related to the funds being withheld and cannot affect other funds in the bill not related to that factual situation; thus to a general appropriation bill containing funds not only for a former President but also for other departments and agencies, an amendment delaying the availability of all funds in the bill until the former President had made restitution of a designated amount of money was held not germane (Oct. 2, 1974, pp. 33620-1). But an amendment postponing the effective date of a title of a bill to a date certain is germane (July 25, 1973, p. 25828), as is an amendment to an authorization bill which conditions the obligation of funds therein by adopting as a measure of their availability the expenditure during that fiscal year of a comparable percentage of funds authorized by other Acts, if the amendment does not directly affect the use of other funds (July 26, 1973, p. 26210); and an amendment which conditions the availability of funds covered by a bill by adopting as a measure of their availability the monthly increases in the public debt may be germane so long as the amendment does not directly affect other provisions of law or impose unrelated contingencies (Sept. 25, 1979, pp. 26150–2). To a provision to become effective immediately, an amendment deferring the time at which it shall become effective, without involving affirmative legislation, was held germane (VIII, 3030). To a bill authorizing defense assistance to a foreign nation, an amendment delaying the availability of that assistance until that nation's former ambassador testified before a House committee, which had been directed by the House to investigate gifts by that nation's representatives to influence Members and employees, was held germane as a contingency which sought to compel the furnishing of information related to efforts to induce defense assistance to that nation (Aug. 2, 1978, pp. 23932–3).

Where a proposition confers broad discretionary power on an executive official, an amendment is germane which directs that official to take certain actions in the exercise of the authority. Thus to an amendment in the nature of a substitute authorizing the Federal Energy Administrator to restrict exports of certain energy resources, an amendment directing that official to prohibit the exportation of petroleum products for use in Indochina military operations was held germane (Dec. 14, 1973, p. 41753). But it is not in order by way of amendment to a bill authorizing funds for military assistance to certain foreign countries, to make the availability of those funds contingent upon efforts by those countries to control narcotic traffic to the U.S., and to authorize the President to offer the assistance of federal agencies for that purpose, where the subjects of narcotics and the accessibility of federal agencies are not contained in the bill (June 17, 1971, pp. 20589–90).

Where a provision delegates certain authority, an amendment proposing to limit such authority is germane (VIII, 3022); to a provision conferring presidential authority to establish priorities among users of petroleum products and requiring priority to education and transportation users, an amendment restricting such regulatory authority by requiring that petroleum products allocated for public school transportation be used only between the student's home and the closest school was held germane (Dec. 13, 1973, pp. 41267–9). Similarly, a bill providing for the deportation of aliens may be amended to exempt a portion of such aliens from deportation (VIII, 3029), a bill providing aid to shipping may be amended to limit such aid to ships equipped with saving devices (VIII, 3027), a bill prohibiting the issuance of injunctions by the courts in labor disputes may be amended to except all labor disputes affecting public utilities (VIII, 3024), and to a proposition denying benefits to recipients failing to meet a certain qualification, a substitute denying the same benefits to some recipients but excepting others is germane (July 28, 1982, pp. 18355–58, 18361). To a bill extending the authorities of one government agency, including requirements for consultation with several other agencies, an amendment requiring that agency to perform a function based upon an analysis furnished by yet another agency was held germane as an additional limitation on the authority of the agency being extended which did not separately mandate the performance of an unrelated function by another entity (July 27, 1978, pp. 23107–8). To a proposition authorizing a program to be undertaken, a substitute providing for a study to determine the feasibility of undertaking the same type of program may be germane as a more limited approach involving the same agency (June 26, 1985, p. 17453, 17458, 17460) (in effect overruling VIII, 2989).

An amendment seeking to restrict the use of funds must be limited to the subject matter and scope of the provisions sought to be amended; to a bill authorizing funds for foreign assistance, an amendment placing restrictions on funds authorized or appropriated in prior years is not germane (Aug. 24, 1967, p. 24002), and to an amendment changing a dollar amount in a bill, a substitute therefor not only changing the figure but also restricting the use of any funds in furtherance of a certain activity is not germane (June 7, 1972, p. 19920). To a proposition restricting the availability of funds to a certain category of recipients, an amendment further restricting the availability of funds to a subcategory of the same recipients is germane (Sept. 25, 1979, pp. 26135–43), and to a bill authorizing appropriations for an agency, an amendment to prohibit the use of such funds for any purpose to which the funds may otherwise be applied is germane (Nov. 5, 1981, p. 26716). To a provision authorizing funds for a fiscal year, an amendment restricting the availability of funds appropriated pursuant thereto for a specified purpose until enactment of a subsequent law authorizing that purpose is germane (July 21, 1983, p. ——). To an amendment precluding the availability of an authorization for part of a fiscal year and then permitting availability for the remainder of the year based upon a contingency, an amendment constituting a prohibition on the availability of the same funds for the entire fiscal year is a germane alternative (May 16, 1984, p. ——). A legislative amendment to an appropriation bill must not only retrench expenditures under Rule XXI, clause 2, but must also be germane to the provisions to which offered. A limitation must apply solely to the money of the appropriation under consideration (VII, 1596, 1600), and may not be made applicable to a trust fund provided (IV, 4017) or to money appropriated in other acts (IV, 3927; VII, 1495, 1597–1599). Thus to a general appropriation bill providing funds for the Department of Agriculture and including specific allocation of funds for pest control, an amendment was germane which prohibited the use of funds for use of presticides prohibited by state or local law (May 26, 1969, p. 13753). But to a provision prohibiting aid to a certain country unless certain conditions were met, an amendment prohibiting aid to another country until that nation took certain acts, and referring to funds provided in other acts, was not germane (Nov. 17, 1967, p. 32968). (See also Procedure Ch. 28, §§ 22–27.)

§ 801. Dilatory motions pending motions to suspend rules.

8. Pending a motion to suspend the rules, the Speaker may entertain one motion that the House adjourn; but after the result thereon is announced he shall not entertain any other motion till the vote is taken on suspension.

This clause of the rule was adopted in 1868 (V, 5743), and amended in 1911 (VIII, 2823). A motion for a recess (V, 5748-5751) and for a call of the House when there was no doubt of the presence of a quorum (V, 5747) were held to be dilatory motions within the meaning of the rule. But where a motion to suspend the rules has been made and, after one motion to adjourn has been acted on, a quorum has failed, another motion to adjourn has been admitted (V, 5744-5746).

§ 802. Privileged motion for consideration of revenue and appropriation bills.

9. At any time after the reading of the Journal it shall be in order, by direction of the appropriate committees, to move that the House resolve itself into the Committee of the Whole House on the state of the Union for the purpose of considering bills raising revenue, or general appropriation bills.

As early as 1835 the necessity of giving the appropriation bills precedence became apparent, and in 1837 a rule was adopted which established the principle which continues in the present rule (IV, 3072).

Although clause 4(a), Rule XI was amended effective January 3, 1975 (H. Res. 988, 93d Congress, p. 34470), to eliminate the authority of the Committee on Ways and Means to report as privileged bills raising revenue (See § 726, *supra*), this clause was not changed, but the privileged nature of the motion under this clause with respect to revenue bills was derived from and was dependent upon the former privilege conferred upon the Committee on Ways and Means under Rule XI, clause 4(a) to report revenue measures to the House at any time (IV, 3076). When both types of reports were privileged under that rule prior to the 94th Congress, motions to consider revenue bills and appropriation bills were of equal privilege (IV, 3075, 3076). The motion may designate the particular appropriation bill to be considered (IV, 3074). The motion is in order on District Mondays (VI, 716-718; VII, 876, 1123); and takes precedence of the motion to go into Committee of the Whole House to consider the Private Calendar (IV, 3082-3085; VI, 719, 720). Before the adoption of clause

4 of Rule XIII it could be made on a "suspension day" as on other days (IV, 3080). On Wednesdays the privilege of the motion is limited by Rule XXIV, clause 7. It may not be amended (VI, 52, 723), debated (VI, 716), laid on the table, or indefinitely postponed (VI, 726), and the previous question may not be demanded on it (IV, 3077–3079). Although highly privileged, it may not take precedence of a motion to reconsider (IV, 3087), or a motion to change the reference of a bill (VII, 2124). The motion is less highly privileged than the motion to discharge a committee from further consideration of a bill under clause 4 of Rule XXVII (VII, 1011, 1016), and the call of the Consent Calendar on consent days takes precedence (VII, 986).

§ 803. Dilatory motions.

10. No dilatory motion shall be entertained by the Speaker.

This clause was adopted in 1890 (V, 5706) to make permanent a principle already enunciated in a ruling of the Speaker, who had declared that the "object of a parliamentary body is action, not stoppage of action" (V, 5713).

The Speaker has declined to entertain debate or appeal on a question as to the dilatoriness of a motion, as to do so would be to nullify the rule (V, 5731); but has recognized that the authority conferred by the rule should not be exercised until the object of the dilatory motion "becomes apparent to the House" (V, 5713–5714). Usually, but not always, the Speaker awaits a point of order from the floor before acting (V, 5715–5722). The rule has been applied to the motions to adjourn (V, 5721, 5731–5733; VIII, 2796, 2813), to reconsider (V, 5735; VIII, 2797, 2815, 2822), to fix the time of five-minute debate in Committee of the Whole (V, 5734; VIII, 2817), the question of consideration (V, 5731–5733), and to lay on the table (VIII, 2816). The point of "no quorum" has also been ruled out (V, 5724–5730; VIII, 2801, 2808) and Rule XV, clause 6, as adopted in the 93d Congress and as amended in the 95th Congress prevents the making of a point of no quorum under certain circumstances. A demand for tellers has been held dilatory (V, 5735, 5736; VIII, 2436, 2818–2821); but the constitutional right of the Member to demand the yeas and nays may not be overruled (V, 5737; VIII, 3107). (For ruling by Speaker Gillett construing dilatory motions, see VIII, 2804.) See also § 729a, supra, for discussion of dilatory motions pending consideration of Rules Committee report, and § 874, infra, for rule prohibiting offering of dilatory amendments printed in Record.

RULE XVII.

PREVIOUS QUESTION.

§ 804. The previous question.

1. There shall be a motion for the previous question, which, being ordered by a majority of Members voting, if a quorum be present, shall have the effect to cut off all debate and bring the House to a direct vote upon the immediate question or questions on which it has been asked and ordered. The previous question may be asked and ordered upon a single motion, a series of motions allowable under the rules, or an amendment or amendments, or may be made to embrace all authorized motions or amendments and include the bill to its passage or rejection. It shall be in order, pending the motion for, or after the previous question shall have been ordered on its passage, for the Speaker to entertain and submit a motion to commit, with or without instructions, to a standing or select committee.

The House adopted a rule for the previous question in 1789, but it was not turned into an instrument for closing debate until 1811. The history of the motion for the previous question is discussed in V, 5443, 5446; VIII, 2661. In 1880, the previous question rule was amended to apply to single motions or a series of motions as well as to amendments, and the motion to commit pending the motion for the previous question or after the previous question is ordered to passage was added (V, 5443). From 1880 to 1890, the previous question could only be ordered to the engrossment and third reading, and then again ordered on passage, but in 1890 the rule was changed to permit ordering the previous question to final passage (V, 5443).

§ 805. Effect of previous question on debate.

The previous question is the only motion used for closing debate in the House itself (V, 5456; VIII, 2662). It is not in order in Committee of the Whole (IV, 4716) but is in order in the House as in Committee of the Whole (VI, 639). The motion may not include a provision that it shall take effect at a certain time (V, 5457). Forty minutes of debate are allowed whenever the previous question is ordered on a proposition on which there has been no debate (V, 6821; VIII, 2689; Sept. 13, 1965, p. 23602; see Rule XXVII, clause 3); but if there has been debate, even though brief, before the ordering of the previous question, the forty minutes are not allowed (V, 5499–5501). This preliminary debate should be on the merits of the question if the forty minutes of debate are to be denied for reason of it (V, 5502). The forty minutes should be demanded before division has begun on the main question (V, 5496). It may not be demanded on incidental motions, but is confined to the main question (V, 5497, 5498; VIII, 2687). It may not be demanded on a proposition which has been debated in Committee of the Whole (V, 5505), or on a conference report if the subject matter of the report was debated before being sent to conference (V, 5506, 5507). When the previous question is ordered merely on an amendment which has not been debated, the forty minutes are allowed (V, 5503); but the same liberty of debate is not allowed when the question covers both an undebated amendment and the original proposition (V, 5504). It was also denied on a resolution to correct an error in an enrolled bill (V, 5508). The forty minutes is divided, one half to those favoring and the other half to those opposing (V, 5495).

§ 806. Application of the previous question.

The provisions of the rule define the application of the previous question with considerable accuracy. It may not be moved on more than one bill except by the unanimous consent of the House (V, 5461–5465), or on motions to agree to a conference report and also to dispose of differences not included in the report (V, 5464) and when ordered on a motion to send to conference applies to that motion alone and does not extend to a subsequent motion to instruct conferees (VIII, 2675). It may apply to the main question and a pending motion to refer (V, 5466; VI, 373; VIII, 2678). When a bill is reported from the Committee of the Whole with the recommendation that the enacting words be stricken out, it may be applied to the motion to concur without covering further action on the bill (V, 5342). During consideration "in the House as in Committee of the Whole" it may be demanded while Members still desire to offer amendments (IV, 4926–4929; VI, 639), but it may not be moved on a single section of a bill (IV, 4930). When ordered on a resolution with a preamble there is doubt of its application to the preamble, unless the motion specifies (V, 5469, 5470). It may be moved on a series of resolutions, but this does not preclude a division of the resolutions on the vote (V, 5468). It is often ordered on undebatable propositions to prevent amendment (V, 5473, 5490), but may not be moved on a motion that is both undebatable and unamendable (IV, 3077). It applies to questions of privilege as to other questions (II, 1256; V, 5459, 5460; VIII, 2672).

§ 807. The right to move the previous question.

The Member in charge of the bill and having the floor may demand the previous question although another Member may propose a motion of higher privilege (VIII, 2684), but the motion of higher privilege must be put first (V, 5480; VIII, 2609, 2684), and if the Member in charge of the bill claims the floor in debate another Member may not demand the previous question (II, 1458); but having the floor, unless yielded to for debate only, any Member may make the motion although the effect may be to deprive the Member in charge of the bill (V, 5476; VIII, 2685). The Member who has called up a measure in the House has priority of recognition to move the previous question thereon, even over the chairman of the reporting committee (Oct. 1, 1986, p. ——). And if, after debate, the Member in charge of the bill does not move the previous question, another Member may (V, 5475); but where a Member intervenes on a pending proceeding to make a preferential motion, such as the motion to recede from a disagreement with the Senate, he may not move the previous question on that motion as against the rights of the Member in charge (II, 1459), and the Member in charge is entitled to recognition to move the previous question even after he has surrendered the floor in debate (VIII, 2682, 3231). Where a Member controlling the time on a bill or resolution in the House yields for the purpose of amendment, another Member may move the previous question before the Member offering the amendment is recognized to debate it (Nov. 8, 1971, p. 39944; July 24, 1979, p. 20385). The previous question may not be demanded on a proposition against which a point of order is pending (VIII, 3433).

§ 808. The motion to commit after the previous question is ordered.

The motion to commit under this rule applies to resolutions of the House alone as well as to bills (V, 5572, 5573; VIII, 2742), and to a motion to amend the Journal (V, 5574). It does not apply to a report from the Committee on Rules providing a special order of business (V, 5593-5601; VIII, 2270, 2750), or to a pending amendment to a proposition in the House (V, 5573). Although a motion to commit under this clause, with instructions to report forthwith with an amendment, has been allowed after the previous question has been ordered on a motion to dispose of Senate amendments before the stage of disagreement (V, 5575; VIII, 2744, 2745), a motion to commit under this rule does not apply to a motion disposing of Senate amendments after the stage of disagreement where utilized to displace a pending preferential motion (Speaker Albert, Sept. 16, 1976, pp. 30887-8).

The motion to commit may be made pending the demand for the previous question on the passage, whether a bill or resolution be under consideration (V, 5576); but when the demand covers all stages of the bill to the final passage the motion to commit is made only after the third reading, and is not in order pending the demand or before the engrossment or third reading (V, 5578-5581). When separate motions for the previous question are made, respectively, on the third reading and on the passage of a bill, the motion to commit should be made only after the previous question is ordered on the passage (V, 5577). When the previous question has been ordered on a simple resolution (as distinguished from a joint resolution) and a pending amendment, the motion to commit should be made after the vote on the amendment (V, 5585-5588). A motion to commit has been entertained after ordering of the previous question even before the adoption of rules at the beginning of a Congress (VIII, 2755; Jan. 5, 1981, p. 111). It was formerly held that the opponents of a bill had no claim to prior recognition to make the motion (II, 1456), but under Rule XVI, clause 4, the prior right to recognition is given to an opponent on a bill or joint resolution pending final passage. The right to move to recommit a House bill with a Senate amendment belongs to a Member who is opposed to the whole bill in preference to a Member who is merely opposed to the Senate amendment (VIII, 2772). When the House refused to order a bill to be engrossed and read a third time the motion to commit may not be made (V, 5602, 5603).

An opponent, preferably a Minority Member in order of seniority on the committee reporting the measure or a similar measure, has priority of recognition to offer a motion to commit a simple or concurrent resolution under this clause (VIII, 2764; Nov. 28, 1979, p. 33914; Procedure, Ch. 23, sec. 13.1), but a motion under this clause to commit a resolution called up in the House as a privileged matter and not previously referred to committee does not depend on party affiliation or on opposition to the resolution (Speaker Albert, Feb. 19, 1976, p. 3920).

The motion to refer under this rule after the previous question is ordered is not debatable (V, 5582), except as provided in rule XVI, clause 4; but may be amended, as by adding instructions, unless such amendment be precluded by moving the previous question (V, 5582-5584; VIII, 2695). Unless the previous question is ordered, an amendment in the nature of a substitute is in order on a motion to commit with instructions (VIII, 2698, 2759), but the amendment should be germane (V, 6888; VIII, 2711).

It is not in order to do indirectly by a motion to commit with instructions what may not be done directly by way of amendment such as to propose an amendment that is not germane (V, 5529-5541, 5834, 5889; VIII, 2707, 2708); to propose to strike out or amend what has already been inserted by way of amendment (V, 5531; VIII, 2712, 2714, 2715, 2723); to propose an amendment in violation of clauses 2, 5 or 6 of Rule XXI (V, 5533-5540); or to grant a committee leave to report at any time (V, 5543). Where a special rule providing for the consideration of a bill prohibited the offering of amendments to a certain title of the bill during its consideration (in both the House and the Committee of the Whole), it was held not in order to offer a motion to recommit with instructions to incorporate an amendment in the restricted title (Jan. 11, 1934, pp. 479–83).

The motion may not be accompanied by a preamble (V, 5589), nor argument or explanation (VIII, 2749); and it may not be laid on the table (V, 5412–5414). Only one motion to commit is in order (V, 5577, 5582, 5585; VIII, 2763), but where a bill is recommitted under this motion the previous question being pending but not ordered on final passage and, having been reported again, is again amended and subjected to the previous question, another motion to commit is in order after the engrossment and third reading (V, 5591). And where one motion to recommit was ruled out of order, the Speaker entertained a proper motion to recommit (VIII, 2763).

When a special order declares that at a certain time the previous question shall be considered as ordered on a bill to the final passage, it has usually, but not always, been held that a motion to commit is precluded (IV, 3207–3209), but under clause 4(b), Rule XI, the Committee on Rules is prohibited from reporting such special order which precludes the motion to recommit in Rule XVI, clause 4. (§ 729(a); VIII, 2260, 2262–2264). Where a special order providing for consideration of a matter in the House provides that the previous question shall be considered as ordered thereon without intervening motion, and does not simply state that the previous question be considered as ordered after debate, the previous question is considered as ordered from the beginning of the debate, precluding the consideration of any intervening motion (Mar. 12, 1980, pp. 5387–93).

§ 809. Relation of the previous question to other motions.

The motion to lay on the table may not be applied to the previous question (V, 5410, 5411); nor may it be applied to the main question after the previous question has been ordered (V, 5415–5422; VIII, 2655), or after the yeas and nays have been ordered on the demand for the previous question (V, 5408, 5409).

The motion to postpone may not be applied to the main question after the previous question has been ordered (V, 5319–5321; VIII, 2617). The previous question may be applied both to the main question and a pending motion to refer (V, 5342; VI, 373).

§ 810. Relation of previous question to failure of a quorum.

2. A call of the House shall not be in order after the previous question is ordered, unless it shall appear upon an actual count by the Speaker that a quorum is not present.

This clause of the rule was adopted in 1860 (V, 5447).

§ 811. Questions of order pending the motion for the previous question.

3. All incidental questions of order arising after a motion is made for the previous question, and pending such motion, shall be decided, whether on appeal or otherwise, without debate.

This clause was adopted in 1837 to prevent delay by debate on points of order after the demand for the previous question (V, 5448). Under the present practice, since debate on points or order is entirely within the control of the Chair, he may recognize and respond to a parliamentary inquiry although the previous question may have been demanded (Speaker pro tempore Snell, Mar. 27, 1926, p. 6469).

A question of privilege relating to the integrity of action of the House itself has been distinguished from ordinary questions of order and has been thrown open to debate after the ordering of the previous question (III, 2532).

RULE XVIII.

RECONSIDERATION.

§ 812. The motion to reconsider.

1. When a motion has been made and carried or lost, it shall be in order for any member of the majority, on the same or succeeding day, to move for the reconsideration thereof, and such motion shall take precedence of all other questions except the consideration of a conference report or a motion to adjourn, and shall not be withdrawn after the said succeeding day without the consent of the House, and thereafter any Member may call it up for consideration: *Provided*, That such motion, if made during the last six days of a session, shall be disposed of when made.

The motion to reconsider used in the Continental Congress and in the House of Representatives from its first organization, in 1789, was first made the subject of a rule in 1802; and at various times this rule has been perfected by amendments (V, 5605).

The motion is not used in Committee of the Whole (IV, 4716–4718; VIII, 2324, 2325), but is in order in the House as in Committee of the Whole (VIII, 2793). It is not in order in the House during the absence of a quorum when the vote proposed to be reconsidered requires a quorum (V, 5606). But on votes incident to a call of the House the motion to reconsider may be entertained and also laid on the table, although a quorum may not be present (V, 5607, 5608).

§ 813. Maker of the motion to reconsider.

The mover of a proposition is entitled to prior recognition to move to reconsider (II, 1454). A Member may make the motion at any time without thereby abandoning a prior motion made by himself and pending (V, 5610). A Delegate or Resident Commissioner may not make the motion in the House (Rule XII; II, 1292; VI, 240). The provision of the rule that the motion may be made "by any member of the majority" is construed, in case of a tie vote, to mean any member of the prevailing side (V, 5615, 5616), and the same construction applies in case of a two-thirds vote (II, 1656; V, 5617, 5618; VIII, 2778–2780). Where the yeas and nays have not been ordered recorded in the Journal, any Member, irrespective of whether he voted with the majority or not, may make the motion to reconsider (V, 5611–5613, 5689; VIII, 2775, 2785); but a Member who was absent (V, 5619), or who was paired in favor of the majority contention and did not vote, may not make the motion (V, 5614; VIII, 2774). It has generally been held in committees that a Member who was not present at a vote but cast his vote by proxy does not qualify to make the motion to reconsider thereon. Any Member may object to the Chair's statement that by unanimous consent the motion to reconsider a vote is laid on the table, and the objecting Member need not have voted on the prevailing side, but if objection is made, the Chair's statement is ineffective and only a Member who voted on the prevailing side may offer the motion to reconsider the vote (Speaker pro tempore Wright, Aug. 15, 1986, p. ——).

§ 814. Precedence of the motion to reconsider.

The precedence given the motion by the rule permits it to be made even after the previous question has been demanded (V, 5656) or while it is operating (V, 5657–5662; VIII, 2784). The motion to reconsider the vote on the engrossment of a bill may be admitted after the previous question has been moved on a motion to postpone (V, 5663), and a motion to reconsider the vote on the third reading may be made and acted on after a motion for the previous question on the passage has been made (V, 5656). It also takes precedence of the motion to go into Committee of the Whole to consider an appropriation bill (VIII, 2785), or even of a demand that the House return to committee after the appearance of a quorum (IV, 3087). But in a case wherein the House had passed a bill and disposed of a motion to reconsider the vote on its passage, it was held to be too late to reconsider the vote sustaining the decision of the Chair which brought the bill before the House (V, 5652), and that a motion to vacate those proceedings was not in order (Speaker O'Neill, Dec. 17, 1985, p. 37472-4). After a conference has been agreed to and the managers for the House appointed, it is too late to move to reconsider the vote whereby the House acted on the amendments in disagreement (V, 5664). While the motion has high privilege for entry, it may not be considered while another question is before the House (V, 5673-5676; July 2, 1980, p. 18354), or while the House is dividing (VIII, 2791). A motion to reconsider a secondary motion to postpone which has previously been offered and rejected is highly privileged, even after the manager of the main proposition has yielded time to another Member and before that Member has begun his remarks (May 29, 1980, pp. 12663-4). When it relates to a bill belonging to a particular class of business, consideration of the motion is in order only when that class of business is in order (V, 5677-5681; VIII, 2786). It may then be called up at any time; but is not the regular order until called up (V, 5682; VIII, 2785, 2786). When once entered it may remain pending indefinitely, even until a succeeding session of the same Congress (V, 5684). The motion to reconsider an action taken on a bill on Tuesday may be entered but may not be considered on Calendar Wednesday (VII, 905); is subject to the question of consideration (VIII, 2437), and may be laid on the table (VIII, 2652, 2659). The motion to reconsider is in order in the procedure of standing committees, and may be made on the same day on which the action is taken to which it is proposed to be applied, or on the next day thereafter on which the committee convenes with a quorum present at a properly scheduled meeting at which business of that class is in order (VIII, 2213).

§ 815. Application of the motion to reconsider.

A motion to reconsider may be entertained, although the bill or resolution to which it applies may have gone to the other House or the President (V, 5666-5668). The Senate may not reconsider the confirmation of a nomination after a commission has been issued by the President to a nominee and the latter has taken the oath and entered upon the duties of his office (U.S. *v.* Smith, 286 U.S., 6). The fact that the House had informed the Senate that it had agreed to a Senate amendment to a House bill was held not to prevent a motion to reconsider the vote on agreeing (V, 5672). When a motion is made to reconsider a vote on a bill which has gone to the Senate, a motion to recall the bill is privileged (V, 5669-5671). The motion to reconsider may be applied once only to a vote ordering the previous question (V, 5655; VIII, 2790), and may not be applied to a vote ordering the previous question which has been partially executed (V, 5653, 5654); but a vote agreeing to an order of the House has been reconsidered, although the execution of the order had begun (III, 2028; V, 5665).

The motion may not be applied to negative votes on motions to adjourn (V, 5620-5622), or for a recess (V, 5625), or to go into Committee of the Whole (V, 5368). The motion to reconsider may be applied however to an affirmative vote on the motion to resolve into the Committee of the

Whole while the Speaker is still in the chair (V, 5368; Apr. 20, 1978, pp. 10990–1). A motion to reconsider the vote by which the House had decided a question of parliamentary procedure was held not to be in order (VIII, 2776). Motions to reconsider negative votes on motions to fix the day to which the House shall adjourn have been the subject of conflicting rulings (V, 5623, 5624). It is in order to reconsider a vote postponing a bill to a day certain (V, 5643; May 29, 1980, p. 12663); but not to reconsider a negative decision of the question of consideration (V, 5626, 5627), or a negative vote on suspension of the rules (V, 5645, 5646; VIII, 2781), or a vote on reconsideration of a bill returned with the objections of the President (VIII, 2778). A vote whereby a second is ordered may be reconsidered (V, 5642). The motion to reconsider a vote on a proposition having been once agreed to, and the said vote having again been taken, a second motion to reconsider may not be made unless the nature of the proposition has been changed by amendment (V, 5685–5688; VIII, 2788; Sept. 20, 1979, pp. 25512–3). After disposition of a conference report and amendments reported from conference in disagreement, it is in order on the same day to move to reconsider the vote on a motion disposing of one of the amendments; but laying on the table a motion to reconsider the vote whereby the House has amended a Senate amendment does not preclude the House from acting on a subsequent Senate amendment to that House amendment, or considering any other proper motion to dispose of an amendment which might remain in disagreement after further Senate action (Oct. 5, 1983, p. ——).

§ 816. Effect of the motion to reconsider.

A bill is not considered passed or an amendment agreed to if a motion to reconsider is pending, the effect of the motion being to suspend the original proposition (V, 5704); and the Speaker declines to sign an enrolled bill until a pending motion to reconsider has been disposed of (V, 5705). But when the Congress expires leaving unacted on a motion to reconsider the vote whereby a simple resolution of the House has been agreed to, it is probable that the resolution would be operative; and where a bill has been enrolled, signed by the Speaker, and approved by the President, it is undoubtedly a law, although a motion to reconsider may not have been disposed of (V, 5704, footnote). A Member-elect may not take the oath until a motion to reconsider the vote determining his title is disposed of (I, 335); but when, in such a case, the motion is disposed of, the right to be sworn is complete (I, 622). When the motion to reconsider is decided in the affirmative the question immediately recurs on the question reconsidered (V, 5703). When a vote whereby an amendment has been agreed to is reconsidered the amendment becomes simply a pending amendment (V, 5704). When the vote ordering the previous question is reconsidered it is in order to withdraw the motion for the previous question, the "decision" having been nullified (V, 5357). When the previous question has been ordered on a series of motions and its force has not been exhausted the reconsideration of the vote on one of the motions does not throw it open to debate (V, 5493); under the earlier practice, when a vote taken under the operation of the previous question was reconsidered, the main question stood divested of the previous question, and was debatable and amendable without reconsideration separately of the motion for the previous question (V, 5491-2; 5700), but under the modern practice, where the House adopts a motion to reconsider a vote on a question on which the previous question has been ordered, the question to be reconsidered is neither debatable nor amendable (unless the vote on the previous question is separately reconsidered) (Speaker pro tempore Simon, July 2, 1980). It is in order to move to reconsider the ordering of the yeas and nays on a question before the question has been finally decided (V, 6029, 5689-91; VIII, 2790); but where the House had voted to reconsider the vote whereby it had rejected a bill but had not separately reconsidered the ordering of a recorded vote, the Speaker put the question de novo and entertained a new demand for a recorded vote (Sept. 20, 1979, pp. 25512-3).

§ 817. The vote on the motion to reconsider.

The motion to reconsider is agreed to by majority vote, even when the vote reconsidered requires two-thirds for affirmative action (II, 1656; V, 5617, 5618; VIII, 2795), or when only one-fifth is required for affirmative action, as in votes ordering the yeas and nays (V, 5689-5692, 6029; VIII, 2790). But one motion to reconsider the yeas and nays having been acted on, another motion to reconsider is not in order (V, 6037).

§ 818. Relation of the motion to reconsider to the motion to lay on the table.

A vote on the motion to lay on the table may be reconsidered whether the decision be in the affirmative (V, 5628, 5695, 6288; VIII, 2785) or in the negative (V, 5629). It is in order to reconsider the vote laying an appeal on the table (V, 5630), although during proceedings under a call of the House this motion was once ruled out (V, 5631). The motion to reconsider may not be applied to the vote whereby the House has laid another motion to reconsider on the table (V, 5632-5640; June 20, 1967, pp. 16497-98); and a motion to reconsider may be laid on the table only before the Chair has put the question on the motion to a vote (Sept. 20, 1979, p. 25512).

§ 819. Debate on the motion to reconsider.

A motion to reconsider is debatable only if the motion proposed to be reconsidered was debatable (V, 5694-5699; VIII, 2437, 2792; Sept. 13, 1965, p. 23608); and the application of the previous question makes a motion to reconsider undebatable (V, 5701; VIII, 2792; Sept. 20, 1979, p. 25512; July 2, 1980, p. 18355). Where a resolution providing for the order of business was agreed to without adoption of the previous question, the Speaker advised that a motion to reconsider would be debatable and that the Member moving the reconsideration would be recognized to control the one hour of debate (Speaker McCormack, Sept. 13, 1965, p. 23608).

§ 820. Application of motion to reconsider to bills in committees.

2. No bill, petition, memorial, or resolution referred to a committee, or reported therefrom for printing and recommitment, shall be brought back into the House on a motion to reconsider; * * *

This clause was first adopted in 1860, and amended in 1872, to prevent a practice of using the privilege of the motion to reconsider to secure consideration of bills otherwise not in order (V, 5647). There is a question as to whether or not the rule applies to a case wherein the House, after considering a bill, recommits it (V, 5648–5650). After a committee has reported a bill it is too late to reconsider the vote by which it was referred (V, 5651).

§ 821. Requirement that reports of committees be in writing and be printed.

2. * * * and all bills, petitions, memorials, or resolutions reported from a committee shall be accompanied by reports in writing, which shall be printed.

This clause was adopted in 1880 (V, 5647).

The House insists on observance of this rule (IV, 4655) and does not receive verbal reports as to bills (IV, 4654). But the sufficiency of a report is passed on by the House and not by the Speaker (II, 1339; IV, 4653). A report is not necessarily signed by all those concurring (II, 1274) or even by any of those concurring, but minority, supplemental and additional views are signed by those submitting them (IV, 4671; VIII, 2229; see Rule XI, clause 2(l)(5)). Under this rule, the printing requirement is not a condition precedent to consideration of the matter reported (VIII, 2307–2309), but see clause 7 of Rule XXI, which states that no general appropriation bill shall be considered until printed hearings and report thereon have been available for three calendar days, and clause 2(l) of Rule XI, pertaining to the consideration of matters reported by committees, and clause 2 of Rule XXVIII, pertaining to the requirement that conference reports and amendments reported in disagreement from conference be available before consideration.

RULE XIX.

OF AMENDMENTS.

§ 822. Amendments to text and to title.

When a motion or proposition is under consideration a motion to amend and a motion to amend that amendment shall be in order, and it shall also be in order to offer a further amendment by way of substitute, to which one amendment may be offered, but which shall not be voted on until the original matter is perfected, but either may be withdrawn before amendment or decision is had thereon. Amendments to the title of a bill or resolution shall not be in order until after its passage, and shall be decided without debate.

This rule was adopted in 1880, with an amendment adding the portion in relation to the title in 1893. The rule of 1880, however, merely stated in form of rule what had been the practice of the House for many years (V, 5753).

§ 823. Conditions of the motion to amend.

It is not in order to offer more than one motion to amend of the same nature at a time (V, 5755; VIII, 2831), and two independent amendments may be voted on at once only by unanimous consent of the House (V, 5779). An amendment must contain instructions to the Clerk as to the portion of the bill it seeks to amend and is subject to a point of order if not in proper form (Oct. 3, 1985, p. 25970–1). A Member may not amend or modify his own amendment except by unanimous consent (Oct. 1, 1985, p. 25453). Motions to strike out and insert provisions on diverse pages and lines of a bill and to insert a new section on a separate subject constitute separate amendments which may be offered en bloc only by unanimous consent, even if the bill has been considered as read and open to amendment at any point (Sept. 16, 1981, pp. 20735–8). But the four motions specified by the rule may be pending at one and the same time (V, 5793; VIII, 2883, 2887). Once a perfecting amendment to an amendment is disposed of, the original amendment, as amended or not, remains open to further perfecting amendment, and all such amendments are disposed of prior to voting on substitutes for the original amendment and amendments thereto (July 26, 1984, p. ——). An amendment in the third degree is not specified by the rule and is not permissible (V, 5754; VIII, 2580, 2888, 2891), even when the third degree is in the nature of substitute for an amendment to a substitute (V, 5791; VIII, 2889). But a substitute amendment may be amended by striking out all after its first word and inserting a new text (V, 5793, 5794), as this, while in effect a substitute, is not technically so, for the substitute always proposes to strike out all after the enacting or resolving words in order to insert a new text (V, 5785, footnote). To qualify as a substitute an amendment must treat in the same manner the same subject carried by the amendment for which offered (VIII, 2879), and for an amendment inserting new text in a bill, a proposition not only inserting similar language but also striking out original text of the bill is not in order as a substitute (VIII, 2880; Sept. 8, 1976, pp. 29237–8). To an amendment adding a new section, an amendment making perfecting changes in the bill rather than in the amendment is not a proper perfecting amendment, but may if germane be offered as a substitute for the amendment (Apr. 26, 1984, p. ——). Where, pursuant to a special rule, a committee amendment in the nature of a substitute, printed in the bill, is being read as original text for purpose of amendment, there may be pending to that text the four stages of amendment permitted by this rule (Apr. 23, 1969, p. 10066). An amendment in the nature of a substitute may be proposed before amendments to the pending portion of original text have been acted on, but may not be voted on until such amendments have been disposed of (V, 5753, 5787). When a bill is considered by sections or paragraphs an amendment in the nature of a substitute is properly offered after the reading for amendment is concluded (V, 5788). But when it is proposed to offer a single substitute for several paragraphs of a bill which is being considered by paragraphs, the substitute may be moved to the first paragraph, with notice that, if agreed to, motions will be made to strike out the remaining paragraphs (V, 5795; VIII, 2898, 2900–2903; July 29, 1969, pp. 21218–19). The substitute amendment, as well as the original proposition, may be perfected by amendments before the vote on it is taken (V, 5786). Where there is pending an amendment in the nature of a substitute, it is in order to offer a perfecting amendment to the pending portion of original text (VIII, 2861; Apr. 27, 1976, p. 11411; see also Procedure, ch. 27, sec. 13.8). An amendment in the nature of a substitute having been agreed to, the vote is then taken on the original proposition as amended (II, 983; V, 5799, 5800), and no further amendment is in order (Speaker O'Neill, Mar. 26, 1985, p. 6274–5). The substitute provided for in this rule has been construed as a substitute for the amendment and not as a substitute for the original text (VIII, 2883). If a perfecting amendment to an amendment in the nature of a substitute, striking out all after the short title and inserting a new text, is agreed to, further amendments to the text which has been perfected are not in order, but amendments are in order to add new language at the end of the amendment in the nature of a substitute as amended (May 16, 1979, p. 11420). An amendment offered as a substitute and rejected may again be offered as an original amendment without presenting an equivalent question, since in the first case the question is the relationship between the substitute and the amendment to which offered and in the second case the question is the relationship between the original amendment and the text of the bill (V, 5797; VIII, 2843). Thus, while an amendment that is amended by a substitute and then adopted as amended may not be reoffered in its original form if it would directly change the amended portion of the bill, where an amendment inserting new language in a bill is amended by a substitute inserting language in a different part of the bill and then adopted as amended, the original amendment may again be offered to the bill notwithstanding its displacement by the substitute, as the vote on the amendment as amended by the substitute is not equivalent to a direct vote on the original amendment (June 25, 1987, p. ——).

§ 824. Withdrawal of the motion to amend.

While the rule provides that either an ordinary or substitute amendment may be withdrawn in the House (V, 5753) or "in the House as in Committee of the Whole" (IV, 4935; June 26, 1973, p. 21315), it may not be withdrawn or modified in Committee of the Whole except by unanimous consent (V, 5221; VIII, 2564, 2859).

§ 825. Precedence of the motion to amend.

Pursuant to Rule XVI, clause 4, the motion for the previous question takes precedence of a motion to amend (Nov. 8, 1971, p. 39944); and if the previous question is not ordered, the motion to refer also has precedence of the motion to amend (V, 5555; VI, 373). Amendments reported by a committee are acted on before those offered from the floor (V, 5773; VIII, 2862, 2863), but a floor amendment to the text of a pending section is considered before a committee amendment adding a new section at the end of the pending section (Oct. 4, 1972, pp. 33779–82), and there is a question as to the extent to which the chairman of the committee reporting a bill should be recognized to offer amendments to perfect it in preference to other Members (II, 1450). Amendments may not be offered by proxy (VIII, 2830). The motion to strike out the enacting clause has precedence of the motion to amend, and may be offered while an amendment is pending (V, 5328–5331; VIII, 2622–2624); but the motion to amend takes precedence over a motion that the Committee of the Whole rise and report the bill with the recommendation that it pass (July 27, 1937, p. 7699).

§ 826. Relation of the motion to amend to other motions.

With some exceptions an amendment may attach itself to secondary and privileged motions (V, 5754). Thus, the motions to postpone, refer, amend, for a recess, and to fix the day to which the House shall adjourn may be amended (V, 5754; VIII, 2824). But the motions for the previous question, to lay on the table, to adjourn (V, 5754) and to go into Committee of the Whole to consider a privileged bill may not be amended (IV, 3078, 3079; VI, 723–725).

An amendment to the title of a bill is not in order in Committee of the Whole (Jan. 29, 1986, p. ——).

RULE XX.

OF AMENDMENTS OF THE SENATE.

§ 827. Consideration of Senate amendments in Committee of the Whole.

1. Any amendment of the Senate to any House bill shall be subject to the point of order that it shall first be considered in the Committee of the Whole House on the state of the Union, if, originating in the House, it would be subject to that point: *Provided, however,* That a motion to disagree with the amendments of the Senate to a House bill or resolution and request or agree to a conference with the Senate, or a motion to insist on the House amendments to a Senate bill or resolution and request or agree to a conference with the Senate, shall always be in order if the Speaker, in his discretion, recognizes for that purpose and if the motion is made by direction of the committee having jurisdiction of the subject matter of the bill or resolution.

The first part of this rule was adopted in 1880 to prevent Senate amendments of the class described from escaping consideration in Committee of the Whole (IV, 4796). The first sentence of the proviso, added by H. Res. 8, 89th Congress, January 4, 1965, p. 21, provides a method whereby bills can be sent to conference by majority vote. A portion of this clause, included as part of the Legislative Reorganization Act of 1970 (84 Stat. 1140, Sec. 126(a)) and adopted as part of the rules of the House on January 22, 1971, p. 144 (H. Res. 5, 92d Cong.), which related to separate votes on nongermane Senate amendments, was deleted from this clause and transferred, with modifications, to clause 5, Rule XXVIII by H. Res. 998, 93d Cong. (Apr. 9, 1974, pp. 10195–9).

§ 828a. Practice in considering Senate amendments in Committee of the Whole.

While a Senate amendment which is a modification merely of a House proposition, like the increase or decrease of the amount of an appropriation, and does not involve new and distinct expenditure, may not be required to be considered in Committee of the Whole (IV, 4797–4806; VIII, 2382–2385), where the question was raised against a Senate amendment which on its face apparently placed a charge upon the Treasury the Speaker held it devolved upon those opposing the point of order to cite proof to the contrary (VIII, 2387). When in the House an amendment is offered to provide an appropriation for another purpose than that of the Senate amendment, the House goes into Committee of the Whole to consider it (IV, 4795). When an amendment is referred, the entire bill goes to the Committee of the Whole (IV, 4808), but the committee considers only the Senate amendment (V, 6192). It usually considers all the amendments, although they may not all be within the rule requiring such consideration (V, 6195). In Committee of the Whole a Senate amendment, even though it be very long, is considered as an entirety and not by paragraphs or sections (V, 6194). When reported from the Committee of the Whole, Senate amendments are voted on en bloc and only those amendments are voted on severally on which a separate vote is demanded (VIII, 3191). It has been held that each amendment is subject to general debate and amendment under the five-minute rule (V, 6193, 6196). The requirement of this clause that certain Senate amendments be considered in Committee of the Whole applies only before the stage of disagreement has been reached on the Senate amendment, and it is to too late to raise a point of order that Senate amendments should have been considered in Committee of the Whole after the House has disagreed thereto and the amendments reported from conference in disagreement (Oct. 20, 1966, p. 28240; Dec. 4, 1975, p. 38714). The motion to send a bill to conference under this clause is in order notwithstanding the fact that the stage of disagreement has not been reached (Aug. 1, 1972, p. 26153) but on a bill which has been jointly referred and reported in the House, the motion must be authorized by all committees reporting thereon (Sept. 26, 1978, p. 31623); and such a motion although once rejected by the House, may be repeated if the stage of disagreement has still not been reached and if the committee having jurisdiction over the subject matter again authorizes its chairman to make the motion (Oct. 3, 1972, pp. 33502–03). See also, Procedure, ch. 32, § 5. The motion to send to conference is in order only if the Speaker in his discretion recognized for that purpose, and the Speaker will not recognize for the motion where he has referred a non-germane Senate amendment in question to a House committee with jurisdiction and they have not yet had the opportunity to consider the amendment (June 28, 1984, p. ——).

§ 828b. Stage of disagreement between Houses.

When the stage of disagreement has been reached on a bill with amendments of the other House, motions to dispose of said amendments are privileged in the House (IV, 3149, 3150; VI, 756; VIII, 3185 3194). The stage of disagreement between the two Houses is reached after the House in possession of the papers has either disagreed to the amendment(s) of the other House or has insisted on its own amendment to a measure of the other House (Sept. 16, 1976, p. 30868), and not merely where the other House has returned a bill with an amendment (Dec. 7, 1977, pp. 38728-9). Thus where the House concurred in a Senate amendment to a House bill with an amendment, insisted on the amendment and requested a conference, and the Senate then concurred in the House amendment with a further amendment, the matter was privileged in the House for further disposition since the House had communicated its insistence and request for a conference to the Senate (Speaker Albert, Sept. 16, 1976, p. 30868).

§829. Conferees may not agree to certain Senate amendments.

2. No amendment of the Senate to a general appropriation bill which would be in violation of the provisions of clause 2 of Rule XXI, if said amendment originated in the House, nor any amendment of the Senate providing for an appropriation upon any bill other than a general appropriation bill, shall be agreed to by the managers on the part of the House unless specific authority to agree to such amendment shall be first given by the House by a separate vote on every such amendment.

This clause of the rule was adopted on June 1, 1920 (pp. 8109, 8120). While the rule provides for a motion authorizing the managers on the part of the House to agree upon amendments of the Senate in violation of clause 2 of Rule XXI a motion to recommit a conference report on a general appropriation bill may not, under this clause, include instructions which would add legislation to that contained in a Senate amendment (Nov. 13, 1973, p. 36847). It is customary after a conference on a general appropriation bill with numbered Senate amendments for the managers to report certain Senate amendments in technical disagreement, and after the partial conference report (consisting of agreement on those Senate amendments not in violation of clause 2, Rule XXI) is disposed of, the remaining amendments are taken up in order and disposed of directly in the House by separate motion. When Senate amendments in disagreement are considered in this fashion, they are not subject to a point of order under this clause (Dec. 4, 1975, p. 38714); and a motion to (recede and) concur in the Senate amendment with a further amendment is also in order, even if the proposed amendment is also legislation on an appropriation bill. The only test is whether the proposed amendment is germane to the Senate amendment reported in disagreement (IV, 3909; VIII, 3188, 3189; Speaker McCormack, Dec. 15, 1970, pp. 41504, 41505; Speaker O'Neill, Dec. 12, 1979, pp. 35520-1; June 30, 1987, p. ——).

In the event an appropriation bill with Senate amendments in violation of clause 2 of Rule XXI is sent to conference by unanimous consent, such procedure does not thereby prevent a point of order being sustained against the conference report should the managers on the part of the House violate the provisions of clause 2 of Rule XX (VII, 1574). But where a special rule in the House waives points of order against portions of an appropriation bill which are unauthorized by law, and the bill passes the House with those provisions included therein and goes to conference, the conferees may report back their agreement to those provisions even though they remain unauthorized, since the waiver in the House of points of order under Rule XXI, clause 2, carries over to the consideration of the same provisions when the conference report is before the House (Dec. 20, 1969, pp. 40445–48, consideration of conference report; Dec. 9, 1969, p. 37948, adoption of special rule waiving points of order against the bill in the House). The rule is a restriction upon the managers on the part of the House only, and does not provide for a point of order against a Senate amendment when it comes up for action by the House (VII, 1572). Managers may be authorized to agree to an appropriation by a resolution reported from the Committee on Rules (VII, 1577). House managers may include in their report a modification of a Senate amendment which eliminates the appropriation in that amendment (June 8, 1972, pp. 20280–81); and the prohibition in this clause applies only to language in Senate amendments. Thus the conferees may without violating this clause agree to language in a Senate bill which was sent to conference (Speaker Albert, Jan. 25, 1972, pp. 1076, 1077; June 30, 1976, pp. 21632–4) or agree to language in a House bill which was permitted to remain and which constitutes an appropriation on a legislative bill (Speaker Albert, May 1, 1975, p. 12752).

A provision in a Senate amendment included in a conference report on an authorization bill considered after the relevant appropriation has been enacted into law, directing that funds appropriated pursuant to the authorization be obligated and expended on a project not specifically funded in the appropriation, is itself an appropriation and may not be agreed to by House conferees (Nov. 29, 1979, pp. 34113–5); and House conferees were held to have violated this clause when they had agreed to a provision in a Senate amendment not only authorizing appropriations to pay judgements against the U.S. for the award of attorney fees and other court costs, but also requiring that where such payments were not paid out of appropriated funds, payment be made in the same manner as judgments under 28 U.S.C. 2414 and 2517 (payable directly out of the Treasury pursuant to a direct appropriation previously provided by law in 31 U.S.C. 1304) (Oct. 1, 1980, pp. 28637–40).

RULE XXI.

ON BILLS.

§830. Reading, engrossment, and passage of bills.

1. Bills and joint resolutions on their passage shall be read the first time by title and the second time in full, when, if the previous question is ordered, the Speaker shall state the question to be: Shall the bill be engrossed and read a third time? and, if decided in the affirmative, it shall be read the third time by title, and the question shall then be put upon its passage.

This rule was adopted in 1789, amended in 1794, 1880 (IV, 3391), and on Jan. 4, 1965 (H. Res. 8, 89th Cong.). This latest amendment eliminated the provision which permitted a Member to demand the reading in full of the engrossed copy of a House bill.

§831. First and second readings.

Formerly a bill was read for the first time by title at the time of its introduction, but since 1890 all bills have been introduced by filing them with the Clerk, thus rendering a reading by title impossible at that time (IV, 3391). But the titles of all bills introduced are printed in the Journal and Record, thus carrying out the real purposes of the rule. The second reading formerly occurred in the House before commitment; but as the processes of handling bills have been shortened, the second reading now occurs for bills considered in the House alone when they are taken up for action (IV, 3391), and, for bills considered in Committee of the Whole, when they are taken up in that committee. A bill read in full in Committee of the Whole and reported therefrom is not read in full again when acted on by the House (IV, 3409, 3410, 4916). But when a bill is taken up in Committee of the Whole its reading in full may be demanded before general debate begins, although it may have just been read in the House (IV, 4738); and may be dispensed with by unanimous consent, or by the special order providing for consideration of the bill, and a motion to that effect is not in order (VIII, 2335, 2436). The Speaker may object to a request for unanimous consent that a bill may be acted on without being read (IV, 3390; VII, 1054).

§832. The third reading after engrossment.

The right to demand the reading in full of the engrossed copy of a bill formerly guaranteed by the rule, existed only immediately after it had passed to be engrossed and before it had been read a third time by title (IV, 3400, 3403, 3404; VII, 1061); or before the yeas and nays had been ordered on passage (IV, 3402). The right to demand the reading in full caused the bill to be laid aside until engrossed even though the previous question had been ordered (IV, 3395-3399; VII, 1062). A privileged motion may not intervene before the third reading (IV, 3405). A vote on the passage has been reconsidered in order to remedy the omission to read a bill a third time (IV, 3406). Senate bills are not engrossed in the House; but are ordered to a third reading. The demand for the reading of the engrossed copy of a Senate bill cannot be made in the House (VIII, 2426).

§833. Voting on bills.

A bill in the House (as distinguished from the Committee of the Whole) is amended pending the engrossment and third reading (V, 5781; VI, 1051, 1052). The question on engrossment and third reading being decided in the negative the bill is rejected (IV, 3420, 3421). A bill must be considered and voted on by itself (IV, 3408). Where the two Houses pass similar but distinct bills on the same subject it is necessary that one or the other House act again on the subject (IV, 3386). The requirement of a two-thirds vote for proposed constitutional amendments has been construed in the later practice to apply only to the vote on the final passage (V, 7029, 7030; VIII, 3504). A bill having been rejected by the House, a similar but not identical bill on the same subject was afterwards held to be in order (IV, 3384).

§834. Unauthorized appropriations and legislation on general appropriation bills.

2. (a) No appropriation shall be reported in any general appropriation bill, or shall be in order as an amendment thereto, for any expenditure not previously authorized by law, except to continue appropriations for public works and objects which are already in progress.

(b) No provision changing existing law shall be reported in any general appropriation bill except germane provisions which retrench expenditures by the reduction of amounts of money covered by the bill, which may include those recommended to the Committee on Appropriations by direction of any legislative committee having jurisdiction over the subject matter thereof, and except rescissions of appropriations contained in appropriations Acts.

(c) No amendment to a general appropriation bill shall be in order if changing existing law. Except as provided in paragraph (d), no amendment shall be in order during consideration of a general appropriation bill proposing a limitation not specifically contained or authorized in existing law for the period of the limitation.

(d) After a general appropriation bill has been read for amendment and amendments not precluded by paragraphs (a) or (c) of this clause have been considered, motions that the Committee of the Whole rise and report the bill to the House with such amendments as may have been adopted shall have precedence over motions to further amend the bill. If any such motion is rejected, amendments proposing limitations not specifically contained or authorized in existing law for the period of the limitation or proposing germane amendments which retrench expenditures by reduction of amounts of money covered by the bill may be considered; but after the vote on any such amendment, the privileged motion made in order under this paragraph may be renewed.

The 25th Congress in 1837 was the first to adopt a rule prohibiting appropriations in a general appropriation bill or amendment thereto not previously authorized by law, in order to prevent delay of appropriation bills because of contention over propositions of legislation. In 1838 that Congress added the exception to permit unauthorized appropriations for continuation of works in progress and for contingencies for carrying on departments of the Government. The rule remained in that form until the 44th Congress in 1876, when William S. Holman of Indiana persuaded the House to amend the rule to permit germane legislative retrenchments. In 1880, the 46th Congress dropped the exception which permitted unauthorized appropriations for contingencies of Government departments, and modified the "Holman Rule" to define retrenchments as the reduction of the number and salary of officers of the United States, the reduction of compensation of any person paid out of the Treasury of the United States, or the reduction of the amounts of money covered by the bill. That form of the retrenchment exception remained in place until the 49th Congress in 1885, when it was dropped until the 52nd Congress in 1891, and then re-inserted through the 53rd Congress until 1894. It was again dropped in the 54th Congress from 1895 until re-inserted in the 62nd Congress in 1911 (IV, 3578; VII, 1125).

The clause remained unamended until January 3, 1983, when the 98th Congress restructured and amended it as follows. Paragraph (a) retained the prohibition against unauthorized appropriations in general appropriation bills and amendments thereto except in continuation of works in progress. Paragraph (b) narrowed the "Holman Rule" exception from the prohibition against legislation to cover only retrenchments reducing amounts of money included in the bill as reported, and permitted legislative committees with proper jurisdiction to recommend such retrenchments to the Appropriations Committee for discretionary inclusion in the reported bill. Paragraph (c) retained the prohibition against amendments changing existing law but permitted limitation amendments during the reading of the bill by paragraph only if specifically authorized by existing law for the period of the limitation. The exception for limitations is strictly construed to apply only where existing law requires or permits the inclusion of limiting language in an appropriation Act, and not merely where the limitation is alleged to be "consistent with existing law" (June 28, 1988, p. ——). Finally, paragraph (d) provided a new procedure for consideration of retrenchment and other limitation amendments only when reading of a general appropriation bill has been completed and only if the Committee of the Whole does not adopt a motion to rise and report the bill back to the House (H. Res. 5, Jan. 3, 1983, p. 34). The last exception in paragraph (b), permitting the inclusion of legislation rescinding appropriations, was added in the 99th Congress by sec. 228(a) of P.L. 99-177, the Balanced Budget and Emergency Deficit Control Act of 1985 (Dec. 12, 1985).

Where the reading of a general appropriation bill for amendment has been completed (or dispensed with), including the last paragraph of the bill containing the citation to the short title (July 30, 1986, p. ——), the Chair may first inquire whether any Member seeks to offer an amendment not prohibited by clause 2(c) (as added in the 98th Congress), prior to recognizing Members to offer limitation or retrenchment amendments, since the motion to rise and report to the House pursuant to clause 2(d) of this rule only supercedes that category of amendments and does not take precedence of amendments otherwise in order (June 2, 1983, p. ——; Sept. 22, 1983, p. ——; Oct 27, 1983, p. ——). Pursuant to clause 2(d) as added in the 98th Congress, a motion that the Committee rise and report the bill to the House with such amendments as may have been adopted is not debatable (Apr. 23, 1987, p. ——) and takes precedence over a limitation amendment (July 30, 1985, p. 21534; July 23, 1986, p. ——; Apr. 23, 1987, p. ——); thus a motion that the Committee rise and report the bill to the House with the recommendation that it be recommitted, with instructions to report back to the House (whether or not forthwith) with an amendment proposing a limitation, does not take precedence over the motion to rise and report the bill to the House with such amendments as may have been adopted (Sept. 19, 1983, p. ——, Chair sustained on appeal). An amendment not only reducing an amount in a paragraph of an appropriation bill but also limiting expenditure of those funds on a particular project—a limitation not contained in existing law, was held not in order during the reading of that paragraph but only at the end of the bill under this clause (July 23, 1986, p. ——; June 15, 1988, p.——). A motion that the Committee of the Whole rise and report to the House with the recommendation that the enacting clause be stricken out takes precedence over the motion to amend under clause 7, Rule XXIII and thus over the motion to rise and report under this clause (July 24, 1986, p. ——).

§835. Points of order on general appropriation bills.

As the rule applies only to general appropriation bills, which are not enumerated or defined in the rules (VII, 1116) bills appropriating only for one purpose have been held not to be "general" within the meaning of this rule (VII, 1122). Neither a resolution providing an appropriation for a single government agency (Jan. 31, 1962, p. 1352), nor a joint resolution only containing continuing appropriations for diverse agencies to provide funds until regular appropriation bills are enacted (Sept. 21, 1967, p. 26370), nor a joint resolution providing an appropriation for a single government agency and permitting a transfer of a portion of those funds to another agency (Oct. 25, 1979, pp. 29627-8), nor a joint resolution transferring funds already appropriated from one specific agency to another (Mar. 26, 1980, pp. 6716-7), nor a joint resolution transferring unobligated balances to the President to be available for specified purposes but containing no new budget authority (Mar. 3, 1988, p. ——), are "general appropriation bills" within the purview of this clause.

As all bills making or authorizing appropriations require consideration in Committee of the Whole, it follows that the enforcement of the rule must ordinarily occur during consideration in Committee of the Whole, where the Chair, on the raising of a point of order, may rule out any portion of the bill in conflict with the rule (IV, 3811; Sept. 8, 1965, pp. 23140; 23182). No report of parts of the bill thus ruled out is made to the House. It is the practice, therefore, for some Member to reserve points of order when a general appropriation bill is referred to Committee of the Whole, in order that portions in violation of the rule may be eliminated in the committee (V, 6921-6925; VIII, 3450; Chairman Chindblom, Feb. 6, 1926, p. 3456). Once points of order have been reserved against an appropriations bill, pending a unanimous-consent request to file the bill in the

House when the House would not be in session, points of order need not be reserved again if the same bill is later filed as privileged when the House is in session, as the initial reservation carries over to the subsequent filing (Mar. 1, 1983, p. 3241). On an instance where points of order were not reserved against an appropriation bill when it was reported to the House and referred to the Committee of the Whole, points of order in the Committee of the Whole against a proposition in violation of this clause were overruled, on the ground that the Chairman of the Committee of the Whole lacked authority to pass upon the question (Apr. 8, 1943, pp. 3150–51, 53). The enforcement of the rule also occurs in the House, since a motion to recommit a general appropriation bill may not propose an amendment containing legislation (Sept. 1, 1976, pp. 28883–4). Points of order against unauthorized appropriations or legislation on general appropriation bills may be made as to the whole or a portion only of a paragraph (IV, 3652; V, 6881), and the fact that a point is made against a portion of a paragraph does not prevent another point against the whole paragraph (V, 6882; July 31, 1985, p. 21895). And if a portion of a proposed amendment be out of order, it is sufficient for the rejection of the whole amendment (V, 6878–6880); and if a point of order is sustained against any portion of a package of amendments considered en bloc, all the amendments are ruled out of order and must be reoffered separately, or those which are not subject to a point of order may be considered en bloc by unanimous consent (Sept. 16, 1981, pp. 20735–38; June 21, 1984, p. ——). Where a point is made against the whole of a paragraph the whole must go out, but it is otherwise when the point is made only against a portion (V, 6884, 6885). General appropriation bills are read "scientifically" only by paragraph headings and appropriation amounts, and points of order against a paragraph must be made before an amendment is offered thereto or before the Clerk reads the next paragraph heading and amount (Nov. 30, 1982, p. 28066). A point of order against a paragraph under this clause may be made only after that paragraph has been read by the Clerk, and not prior to its reading pending consideration of an amendment inserting language immediately prior thereto (June 6, 1985, p. 14605, 14609). Where the reading of a paragraph of a general appropriation bill has been dispensed with by unanimous consent, the Chair inquires whether there are points of order against the paragraph before entertaining amendments or directing the Clerk to read further, but he does not make such an inquiry where the Clerk has actually read the paragraph (May 31, 1984, p. ——). Where the bill is considered as having been read and open to amendment by unanimous consent, points of order against provisions in the bill must be made before amendments are offered, and cannot be reserved pending subsequent action on amendments (Dec. 1, 1982, p. 28175). Where a chapter is considered as read by unanimous consent and open to amendment at any point, no amendments are offered and the Clerk begins to read the next chapter, it is too late to make a point of order against a paragraph in the preceeding chapter

(June 11, 1985, p. 15181). It is too late to rule out the entire paragraph after points of order against specific portions have been sustained and an amendment to the paragraph has been offered (June 27, 1974, pp. 21670-2). In the administration of the rule it is the practice that those upholding an item of appropriation, should have the burden of showing the law authorizing it (IV, 3597; VII, 1179, 1233, 1276); so the burden of proving the authorization for language carried in an appropriation bill, or that the language in the bill constitutes a valid limitation which does not change existing law, falls on the proponents and managers of the bill (May 28, 1968, p. 15357; Nov. 30, 1982, p. 28062). The Committee on Appropriations has the burden of proving the authorization for an appropriation, but the Chair may overrule a point of order upon citation to an organic statute creating an agency, absent any showing that such law has been amended or repealed to require specific annual authorizations; the Chair may hear further argument and reverse his ruling, however, where existing law not previously called to the Chair's attention would require the ruling to be reversed (VIII, 3435; June 8, 1983, p. ——, where a law amending the statute creating the Bureau of the Mint with the express purpose of requiring annual authorizations was subsequently called to the Chair's attention). Reported provisions in a general appropriation bill described in the accompanying report (pursuant to clause 3 of Rule XXI) as directly or indirectly changing the application of existing law are presumably legislation, absent rebuttal by the committee (May 31, 1984, p. ——). The burden of proof to show that an appropriation contained in an amendment is authorized by law is on the proponent of the amendment (May 11, 1971, p. 14471) and the burden is on the proponent of an amendment to a general appropriation bill to prove that language offered under the guise of a limitation does not change existing law (June 16, 1976, pp. 18666-7; July 17, 1975, p. 23239). If the amendment is susceptible to more than one interpretation, it is incumbent upon the proponent to show that it is not in violation of the rule (Procedure ch. 25, sec. 6.3; July 28, 1980, pp. 19924-5). The mere recitation in an amendment that a determination is to be made pursuant to existing laws and regulations, absent a citation to the law imposing such responsibility, is not sufficient proof by the proponent of an amendment to overcome a point of order that the amendment constitutes legislation (Sept. 16, 1980, pp. 25606-7). The authorization must be enacted before the appropriation may be included in an appropriation bill; thus delaying the availability of an appropriation pending enactment of an authorization does not protect the item of appropriation against a point of order under this clause (Apr. 26, 1972, p. 14455).

Where an unauthorized appropriation or legislation is permitted to remain in a general appropriation bill by failure to raise or by waiver of a point of order, an amendment merely changing that amount and/or not adding legislative language or earmarking separate funds for another unauthorized purpose is in order (July 27, 1954, p. 12287; Oct. 1, 1975, p. 31058; June 8, 1977, pp. 17941–2; July 17, 1985, p. 19435), but an amendment adding further unauthorized items of appropriation or earmarking for another unauthorized purpose or adding legislation in the form of new duties or broadening the application of a legislative provision permitted to remain to other funds is not in order (Dec. 8, 1971, p. 45487; Aug. 7, 1978, pp. 24710–2; July 30, 1985, p. 21532; July 17, 1986, p. ——; July 23, 1986, p. ——; June 26, 1987, p. ——; May 25, 1988, p. ——; June 28, 1988, p. ——, p. ——). But to a legislative provision permitted to remain conferring assistance on a certain class of recipients, an amendment adding another class is further legislation and is not merely perfecting in nature (June 22, 1983, p. ——). An amendment to a general appropriation bill is not subject to a point of order as adding legislation if containing, verbatim, a legislative provision already contained in the bill and permitted to remain (Aug. 27, 1980, p. 23519). Where by unanimous consent an amendment is offered en bloc to a paragraph of a general appropriation bill containing an unauthorized amount not yet read for amendment, the amendment increasing that unauthorized figure is subject to a point of order since at that point it is not being offered to a paragraph which has been read and permitted to remain (June 21, 1984, p. ——). To a legislative provision in a general appropriation bill, permitted to remain, exempting cases where the life of the mother would be endangered if a fetus were carried to term from a denial of funds for abortions, an amendment exempting instead cases where the health of the mother would be endangered if the fetus were carried to term was held not to constitute further legislation, since determinations on the endangerment of life necessarily subsume determinations on the endangerment of health, and the amendment did not therefore require any different or more onerous determinations (June 27, 1984, p. ——). The inclusion of funds in a general appropriation bill in the form of a "not to exceed" limitation does not obviate a point of order that the funds are not authorized by law (June 21, 1988, p. ——).

§ 836. Authorization of law for appropriations.

The authorization by existing law required in the rule to justify appropriations may be made also by a treaty if it has been ratified by both the contracting parties (IV, 3587), but an executive order does not constitute sufficient authorization in law absent proof of its derivation from a statute enacted by Congress authorizing the order and expenditure of funds (June 15, 1973, p. 19855; June 25, 1974, p. 21036). Thus a Reorganization Plan submitted by the President pursuant to 5 U.S.C. § 906 has the status of statutory law when it becomes effective and is sufficient authorization to support an appropriation for an office created by executive order issued pursuant to the Reorganization Plan (June 21, 1974, pp. 20595–6). And a resolution of the House has been held sufficient authorization for an appropriation for the salary of an employee of the House (IV, 3656–3658) even though the resolution may have been agreed to only by a preceding House (IV, 3660). Previous enactment of items of appropriation unauthorized by law does not justify similar appropriations in subsequent bills (VII, 1145, 1150, 1151) unless if through appropriations previously made, a function of the government has been established which would bring it into the category of continuation of works in progress (VII, 1280), or unless legislation in a previous appropriation act has become permanent law (May 20, 1964, p. 11422). The omission to appropriate during a series of years for an object authorized by law does not repeal the law, and consequently an appropriation when proposed is not subject to the point of order (IV, 3595). The law authorizing each head of a department to employ such numbers of clerks, messengers, copyists, watchmen, laborers, and other employees as may be appropriated for by Congress from year to year is held to authorize appropriations for those positions not otherwise authorized by law (IV, 3669, 3675, 4739); but this law does not apply to offices not within departments or not at the seat of government (IV, 3670–3674). And a permanent law authorizing the President to appoint certain staff, together with legislative provisions authorizing additional employment contained in an appropriation bill enacted for that fiscal year, constituted sufficient authorization for a lump sum supplemental appropriation for the White House for the same fiscal year (Nov. 30, 1973, pp. 38854–5). By a general provision of law appropriations for investigations and the acquisition and diffusion of information by the Agricultural Department on subjects related to agriculture are generally in order in the agricultural appropriation bill (IV, 3649). It has once been held that this law would authorize also appropriations for the instrumentalities of such investigations (IV, 3615); but these would not include the organization of a bureau to conduct the work (IV, 3651). The law does not authorize general investigations by the department (IV, 3652), or cooperation with state investigations (IV, 3650; VII, 1301, 1302), or the investigation of foods in relation to commerce (IV, 3647, 3648; VII, 1298), or the compiling of tests at an exposition (IV, 3653). A paragraph of a general appropriation bill both establishing and funding a commission was ruled out as constituting legislation and carrying unauthorized appropriations (June 29, 1988, p. ——).

The failure of Congress to enact into law separate legislation specifically modifying eligibility requirements for grant programs under existing law does not necessarily render appropriations for those programs subject to a point of order, where more general existing law authorizes appropriations for all of the programs proposed to be modified by new legislation pending before Congress (June 8, 1978, p. 16778). But whether organic statutes or general grants of authority in law constitute sufficient authorization to support appropriations depends on whether the general laws applicable to the function or department in question require specific and/or annual authorizations. For example, 22 U.S.C. 2680(a)(1) provides that no funds are available to the Department of State for obligation or expenditure unless appropriations therefor have been authorized by law enacted after February, 1972; thus appropriations for direct operations of that Department and for related functions violate clause 2 of Rule XXI absent enactment of specific authorizations for the fiscal year in question (June 14, 1978, p. 17616). Similar statutes pertain to the Department of Justice and related agencies and bureaus (June 14, 1978, p. 17622), the National Bureau of Standards (June 14, 1978, p. 17626), the Federal Trade Commission (June 14, 1978, p. 17630), and a variety of other agencies (June 14, 1978, pp. 17624-30).

Pursuant to Rule XLVIII, clause 9, no funds may be appropriated to certain agencies carrying out intelligence and intelligence-related activities, unless such funds have been authorized by law for the fiscal year in question.

§ 837. Authorization for claims and salaries.

Judgments of courts certified to Congress in accordance with law or authorized by treaty (IV, 3634, 3635, 3644) and audited under authority of law have been held to be authorization for appropriations for the payment of claims (IV, 3634, 3635). But unadjudicated claims (IV, 3628), even though ascertained and transmitted by an executive officer (IV 3625-3640), and findings filed under the Bowman Act do not constitute authorization (IV, 3643).

An appropriation for an object not otherwise authorized does not constitute authorization to justify a continuance of the appropriation another year (IV, 3588, 3589; VII, 1128, 1145, 1149, 1191), and the mere appropriation for a salary does not create an office so as to justify appropriations in succeeding years (IV, 3590, 3672, 3697), it being a general rule that propositions to appropriate for salaries not established by law or to increase salaries fixed by law are out of order (IV, 3664-3667, 3676-3679). But an exception to these general principles is found in the established practice that in the absence of a general law fixing a salary the amount appropriated in the last appropriation bill has been held to be the legal salary (IV, 3687-3696). A law having established an office and fixed a salary, it is not in order to provide for an unauthorized office and salary in lieu of it (IV, 3680).

§ 838. Authorizations for public works.

An appropriation for a public work in excess of a fixed limit of cost (IV, 3583, 3584; VII, 1133), or for extending a service beyond the limits assigned by an executive officer exercising a lawful discretion (IV, 3598), or by actual law (IV, 3582, 3585), or for purposes prohibited by law are out of order (IV, 3580, 3581, 3702). But the mere appropriation of a sum "to complete" a work does not fix a limit of cost such as would exclude future appropriations (IV, 3761). A declaration of policy in an act followed by specific provisions conferring authority upon a governmental agency to perform certain functions is not construed to authorize appropriations for purposes germane to the policy but not specifically authorized by the act (VII, 1200). A point of order will not lie against an amendment proposing to increase a lump sum for public works projects where language in the bill limits use of the lump sum appropriation to "projects as authorized by law" (Procedure, ch. 25, sec. 5.5), but where language in the bill limits use of the lump sum both to projects "authorized by laws" and "subject, where appropriate, to enactment of authorizing legislation", that paragraph constitutes an appropriation in part for some unauthorized projects and is not in order (June 6, 1985, p. 14617).

§ 839. Continuation of a public work by appropriations.

The rule requiring appropriations to be authorized by existing law excepts those "in continuance of appropriations for such public works and objects as are already in progress" (IV, 3578). But an appropriation in violation of existing law or to extend a service beyond a fixed limit (IV, 3585; VII, 1332), is not in order as the continuance of a public work (IV, 3702–3724). Where existing law (40 U.S.C. 606) specifically prohibits the making of an appropriation to construct or alter any public building involving more than $500,000 unless approved by the House and Senate Public Works Committees, an appropriation for such purposes not authorized by both committees is out of order notwithstanding the "works in progress" exemption, since the law specifically precludes the appropriation from being made (June 8, 1983, p. ——). Interruption of a work does not necessarily remove it from the privileges of the rule (IV, 3705–3708); but the continuation of the work must not be so conditioned in relation to place as to become a new work (IV, 3704). It has been held that a work has not been begun within the meaning of the rule when an appropriation has been made for a site for a public building (IV, 3785), or when a commission has been created to select a site or when a site has actually been selected for a work (IV, 3762–3763), or when a survey has been made (IV, 3782–3784). By "public works and objects already in progress" are meant tangible matters like buildings, roads, etc., and not duties of officials in executive departments (IV, 3709–3713), or the continuance of a work indefinite as to completion and intangible in nature like the gauging of streams (IV, 3714, 3715). A general system of roads on which some work has been done can not be admitted as a work in progress (VII, 1333). (See § 847 relating to reappropriation for continuation of public works in progress.)

§ 840. Examples illustrating the continuation of a public work.

Thus the continuation of the following works has been admitted: A topographical survey (IV, 3796, 3797; VII, 1382), a geological map (IV, 3795), marking of a boundary line (IV, 3717), marking graves of soldiers (IV, 3788), a list of claims (IV, 3717), and recoinage of coins in the Treasury (IV, 3807); but the following works have not been admitted: Investigation of materials, like coal (IV, 3721), scientific investigations (IV, 3719; VII, 1345), duties of a commission (IV, 3720), (VII, 1344), extension of foreign markets for goods (IV, 3722), printing of a series of opinions indefinite in continuance (IV, 3718), free evening lectures in the District of Columbia (IV, 3789), continuation of an extra compensation for ordinary facility for carrying the mails (IV, 3808), although the continuation of certain special mail facilities has been admitted (IV, 3804–3806). But appropriations for rent and repairs of buildings or Government roads (IV. 3793, 3798) and bridges (IV, 3803) have been admitted as in continuation of a work (IV, 3777, 3778), although it is not in order as such to provide for a new building in place of one destroyed (IV, 3606). Nor is it in order to repair paving adjacent to a public building but in a city street, although it may have been laid originally by the Government (IV, 3779). The purchase of adjoining land for a work already established has been admitted under this principle (IV, 3766–3773) and also additions to existing buildings in cases where no limits of cost have been shown (IV, 3774, 3775). But the purchase of a separate and detached lot of land is not admitted (IV, 3776). The continuation of construction at the Kennedy Library, a project owned by the United States and funded by a prior year's appropriation, has been admitted notwithstanding the absence of any current authorization (June 14, 1988, p. ——). A provision of law authorizing Commissioners of the District of Columbia to take over and operate the fish wharves of the city of Washington was held insufficient authority to admit an appropriation for reconstructing the fish wharf (VII, 1187).

§ 841a. New buildings at existing institutions as in continuance of a public work.

Appropriations for new buildings at Government institutions have sometimes been admitted (IV, 3741–3750) when intended for the purposes of the institution (IV, 3747); but later decisions, in view of the indefinite extent of the practice made possible by the early decisions, have ruled out propositions to appropriate for new buildings in navy yards (IV, 3755–3759) and other establishments (IV, 3751–3754). Appropriations for new schoolhouses in the District of Columbia (IV, 3750; VII, 1358), for new Army hospitals (IV, 3740), for new lighthouses (IV, 3728), armor-plate factories (IV, 3737–3739), and for additional playgrounds for children in the District of Columbia (IV, 3792) have also been held not to be in continuation of a public work.

§ 841b. New vessel for naval and other services as in continuation of a public work.

By a former broad construction of the rule an appropriation of a new and not otherwise authorized vessel of the Navy had been held to be a continuance of a public work (IV, 3723, 3724); but this line of decisions has been overruled (VII, 1351; Chairman Lehlbach, Jan. 22, 1926, p. 2621. While appropriations for new construction and procurement of aircraft and equipment for the Navy are not in order, appropriations for continuing experiments and development work on all types of aircraft are in order (Chairman Lehlbach, Jan. 22, 1926, p. 2623). This former interpretation was confined to naval vessels, and did not apply to vessels in other services, like the Coast and Geodetic Survey or Lighthouse Service (IV, 3725, 3726), or to floating or stationary dry docks (IV, 3729–3736). The construction of a submarine cable in extension of one already laid was held not to be the continuation of a public work (IV, 3716), but an appropriation for the Washington-Alaska military cable has been held in order (VII, 1348).

§ 842a. Legislation on appropriation bills generally.

The provision of the rule forbidding in any general appropriation bill a "provision changing existing law" is construed to mean the enactment of law where none exists (IV, 3812, 3813), such as permitting funds to remain available until expended or beyond the fiscal year covered by the bill, where existing law permits no such availability (Aug. 1, 1973, pp. 27288-9), or immediately upon enactment (July 29, 1986, p. ——; June 28, 1988, p. ——) or merely permits availability to the extent provided in advance in appropriation Acts but not explicitly beyond the fiscal year in question (July 21, 1981, p. 16687). Language waiving the provisions of existing law where the law being waived permits exceptions therefrom to be contained in appropriation laws but not in appropriation bills (Nov. 13, 1975, p. 36271), has been ruled out, as has language identical to that contained in an authorization bill previously passed by the House but not yet signed into law (Aug. 4, 1978, p. 24436), or a proposition for repeal of existing law (VII, 1403). Existing law may be repeated verbatim in an appropriation bill (IV, 3814, 3815), but the slightest change of the text causes it be ruled out (IV, 3817; VII, 1391, 1394; June 4, 1970, p. 18405). It is in order to include language descriptive of authority provided in law for the operation of government agencies and corporations so long as the description is precise and does not change that authority in any respect (June 15, 1973, pp. 19843-44; Aug. 3, 1978, p. 24249). The object to be appropriated for may be described without violating the rule (IV, 3864). The fact that an item has been carried in appropriation bills for many years does not exempt it from a point of order as being legislation (VII, 1445, 1656). The reenactment from year to year of a law intended to apply during the year of its enactment only is not relieved, however, from the point that it is legislation (IV, 3822).

Limits of cost for public works may not be made or changed (IV, 3761, 3865-3867; VII, 1446), or contracts authorized (IV, 3868-3870; May 14, 1937, p. 4595).

§ 842b. Contingencies and congressional actions.

An amendment making an appropriation contingent upon a recommendation (June 27, 1979, pp. 17054-5) or action not specifically required by law (July 23, 1980 pp. 19295-7; July 29, 1980, pp. 20098-100) is legislation. For example, where existing law requires an agency to furnish certain information to congressional committees upon request, without a subpoena, it is not in order on an appropriation bill to make funding for that agency contingent upon its furnishing information to subcommittees upon request (July 29 and July 30, 1980, pp. 20475-6), or contingent upon submission of an agreement by a Federal official to Congress and Congressional review thereof (July 31, 1986, p. ——). Similarly, it is not in order on a general appropriation bill to condition funds on legal determinations to be made by a federal court and an executive department (June 28, 1988, p. ——; see Deschler's, ch. 26, § 47.2).

Amendments making the availability of funds in a general appropriation bill contingent upon subsequent Congressional action have, under the most recent precedents, been ruled out as legislation. On June 30, 1942 (p. 5826) the Chair ruled that an amendment prohibiting the availability of funds to enforce certain executive orders, unless those orders were approved by concurrent resolutions of the Congress, was legislation imposing new requirements of further legislative action, and on May 15, 1947 (p. 5378), the Chair ruled out as legislation an amendment providing that a certain appropriation did not grant authority for a certain use of funds unless specific approval of Congress was subsequently granted. Two subsequent rulings upholding the admissibility of amendments making the availability of funds in a general appropriation bill contingent upon subsequent Congressional action (June 11, 1968, p. 16692; Sept. 6, 1979, pp. 23360–1) have, in turn, been superceded by two more recent rulings. On Nov. 18, 1981 (p. 28064), a provision making the availability of certain funds contingent upon subsequent Congressional action on legislative proposals resolving the policy issue was held to constitute legislation; on Nov. 2, 1983 (p. ——), an amendment to a general appropriation bill making the availability of funds therein contingent upon subsequent enactment of legislation containing specified findings was ruled out as legislation requiring new legislative and executive branch policy determinations not required by law; and on June 29, 1987 (p. ——), an amendment changing a permanent appropriation in existing law to restrict its availability until all general appropriation bills are presented to the President was held to constitute legislation.

It is not in order on a general appropriation bill to require a congressional committee to promulgate regulations to limit the use of an appropriation (June 13, 1979, pp. 14670–1). Also a proposition to change a rule of the House is subject to the point of order (IV, 3819). A provision constituting Congressional disapproval of a deferral of budget authority proposed by the President pursuant to the Impoundment Control Act is not in order if included in a general appropriation bill rather than in a separate resolution of disapproval under that Act (July 29, 1982, pp. 18625, 18626). An amendment making the availability of funds in a general appropriation bill contingent upon a substantive determination by a state or local government official or agency which is not otherwise required by existing law has been ruled out as legislation (July 25, 1985, p. 20569).

§ 842c. Construing or amending existing law.

A provision proposing to construe existing law is in itself a proposition of legislation and therefore not in order (IV 3936–3938; May 2, 1951, pp. 4747–8; July 26, 1951, p. 8982), but while a limitation on the use of funds may require executive officers to construe the language of that limitation in administering those funds, that duty of statutory construction, absent a further imposition of an affirmative direction not required by law, does not destroy the validity of the limitation (June 27, 1974, pp. 21687–94). In interpreting the responsibilities imposed upon Federal officials by existing law to determine whether an amendment constitutes a change in that law, the Chair may take into account the fact that Federal court rulings have not been uniform or finally dispositive of procedural duties mandated by the Constitution, as in the case of the requirement of a search warrant, based on probable cause, for an inspection by an administrative and regulatory agency (June 16, 1977, pp. 19365–74; June 7, 1978, p. 16676).

An amendment which does not limit or restrict the use or expenditure of funds in the bill, but which directs the way in which all provisions in the bill must be interpreted or construed, is legislation (Aug. 27, 1980, p. 23535; May 17, 1988, p. ——), although it has been held in order to except from the operation of a specific limitation on expenditures, certain of those expenditures which are authorized by law, by prohibiting a construction of the limitation in a way which would prevent compliance with that law (March 24, 1944, p. 3095). The mere recitation in an amendment that a determination is to be made pursuant to existing laws and regulations, absent a citation to the law imposing such responsibility, is not sufficient proof by the proponent of an amendment to overcome a point of order that the amendment constitutes legislation (Sept. 16, 1980, pp. 25606–7; May 8, 1986, p. ——). An amendment denying the use of funds for the Treasury Department to apply certain provisions of the Internal Revenue Code other than under regulations and court decisions in effect on a prior date is legislation since requiring an official to apply interpretations no longer current in order to render an appropriation available (June 7, 1978, p. 16655; Aug. 19, 1980, pp. 21978–80). A paragraph of a general appropriation bill changing existing law concerning federal diversity jurisdiction is legislation (July 1, 1987, p. ——).

§ 842d. Imposing duties or requiring determinations.

Propositions to establish affirmative directions for executive officers (IV, 3854–3859; VII, 1443; July 31, 1969, p. 21675; June 18, 1979, pp. 15286–7; July 1, 1987, p. —— and p. ——), even in cases where they may have discretion under the law so to do (IV, 3853; June 4, 1970, p. 18401; Aug. 8, 1978, pp. 24959–60), or to affirmatively take away an authority or discretion conferred by law (IV, 3862, 3863; VII, 1975; Mar. 30, 1955, pp. 4065–6; June 21, 1974, p. 20600; July 31, 1985, p. 21909), are subject to the point of order. While any limitation in an appropriation bill (see § 483, infra) places some minimal duties on federal officials, who must determine the effect of such a limitation on appropriated funds, an amendment or language in an appropriation bill may not impose additional duties, not required by law, or make the appropriation contingent upon the performance of such duties (May 28, 1968, p. 15350). Language in the form of a conditional limitation requiring determinations by Federal officials will be held to change existing law unless the proponent can show that the new duties are merely incidental to functions already required by law and do not involve substantive new determinations (July 26, 1985,

p. 20807). Where an amendment to or language in a general appropriation bill implicitly places new duties on officers of the government or implicitly requires them to make investigations, compile evidence, or make judgments and determinations not otherwise required of them by law, such as to judge intent or motives, then it assumes the character of legislation and is subject to a point of order (July 31, 1969, pp. 21653, 21675, where the words "in order to overcome racial imbalance" were held to impose additional duties, and Nov. 30, 1982, p. 28062, where the words "to interfere with" the rulemaking authority of any regulatory agency were held to implicitly require the Office of Management and Budget to make determinations not discernibly required by law in evaluating and executing its responsibilities). An amendment authorizing the President to reduce each appropriation in the bill by not more than ten percent was ruled out as legislation conferring new authority on the President (May 31, 1984, p. ——; June 6, 1984, p. ——). A limitation on the use of funds, or an exception therefrom, may not be accompanied by language stating or requiring a finding of a motive or purpose in carrying out the limitation (Aug. 8, 1978, pp. 24969–70; July 22, 1980, pp. 19087–8; Sept. 16, 1980, p. 25604; Sept. 22, 1981, p. 21577). A paragraph prohibiting the use of funds to perform abortions except where the mother's life would be endangered if the fetus were carried to term is legislation, since requiring federal officials to make new determinations and judgments not required of them by law, regardless whether private or State officials administering the funds in question routinely make such determinations (June 17, 1977, p. 1969). The fact that such a provision relating to abortion funding may have been included in appropriation Acts in prior years applicable to funds in those laws does not permit the inclusion of similar language requiring such determinations, not required by law, with respect to funds for the fiscal year in question (Sept. 22, 1983, p. ——). But to such a provision permitted to remain in a general appropriation bill, an amendment exempting instead cases where the health of the mother would be endangered if the fetus were carried to term was held not to constitute further legislation by requiring any different or more onerous determinations (June 27, 1984, p. ——). An amendment prohibiting the use of funds in an appropriation bill for the General Services Administration to dispose of U.S.-owned "agricultural" land declared surplus was ruled out as legislation, since the determination whether surplus lands are "agricultural" was not required by law (Aug. 20, 1980, pp. 22156–8). The fact that an executive official may have been directed by an executive order to consult another executive official prior to taking an action does not permit inclusion of language directing the official being consulted to make determinations not specifically required by law (July 22, 1980, pp. 19087–8). An amendment limiting use of funds in a bill may not condition the availability of funds or the exercise of contract authority upon an interpretation of local law where that interpretation is not required by existing law (July 17, 1981, p. 16327), may not require new determinations of full Federal compliance with mandates imposed upon States (July 22, 1981, p. 16829), may not require the evaluation of the theoretical basis of a program (July 22, 1981, p. 16822), may not require new determinations of propriety or effectiveness (Oct. 6, 1981, p. 23361; May 25, 1988, p. ——), or satisfactory quality (Aug. 1, 1986, p. ——) or incorporate by reference determinations already made in administrative processes not affecting programs funded by the bill (Oct. 6, 1981, p. 23361); may not require new determinations of rates of interest payable (July 29, 1982, p. 18624; Dec. 9, 1982, p. 29691); may not apply standards of conduct to foreign entities where existing law requires such conduct only by domestic entities (July 17, 1986, p. ——); may not require the enforcement of a standard where existing law only requires inspection of an area (July 30, 1986, p. ——); and may not prohibit the availability of funds for the purchase of "nondomestic" goods and services (Sept. 12, 1986, p. ——); may not mandate contractual provisions (May 18, 1988, p. ——); may not authorize the adjustment of wages of government employees (June 21, 1988, p. ——; Apr. 26, 1989, p. ——); but may deny the availability of funds in situations where certain information is "already known" (VII, 1695).

§ 842e. Mandating expenditures.

A provision which mandates a distribution of funds in contravention of an allocation formula in existing law is legislation (July 29, 1982, pp. 18637, 18638; Oct. 5, 1983, p. ——), as is an amendment which by such a mandate interferes with an executive official's discretionary authority (Mar. 12, 1975, p. 6338), as in an amendment requiring not less than a certain sum to be used for a particular purpose where existing law does not mandate such expenditure (June 18, 1976, p. 19297; July 29, 1982, p. 18623). Where existing law directed a federal official to provide for sale of certain government property to a private organization in "necessary" amounts, an amendment providing that no such property be withheld from distribution from qualifying purchasers is legislation, since requiring disposal of all property and restricting discretionary authority to determine "necessary" amounts (Aug. 7, 1978, p. 24707). An amendment directing the use of funds to assure compliance with an existing law, where existing law does not so mandate, also is legislation (June 24, 1976, p. 20370). So-called "hold-harmless" provisions which mandate a certain level of expenditure for certain purposes or recipients, where existing law confers discretion or makes ratable reductions in such expenditures, also constitute legislation (Apr. 16, 1975, p. 10357; June 25, 1976, p. 20557). A transfer of available funds from one Department to another with directions as to the use to which those funds must be put is legislation (and also a reappropriation in violation of clause 6 of this rule) (Dec. 8, 1982, p. 29449).

§ 842f. Waivers; amending legislation permitted to remain.

The House may, be agreeing to a report from the Committee on Rules or by adopting an order under suspension of the rules, allow legislation on general appropriation bills (IV, 3260–3263, 3839–3845). A paragraph which proposes legislation or an unauthorized appropriation being permitted to remain, by special order or by failure to raise a point of order, may be perfected by germane amendment (IV, 3823–3835, 3838; VII, 1405, 1413–1415; June 9, 1954, pp. 5963–64; Sept. 11, 1985, p. 23398; June 14, 1988, p. ——), but this does not permit an amendment which adds additional legislation (IV, 3836, 3837, 3862; VII, 1402–1436; Dec. 9, 1971, pp. 4595–96; Aug. 1, 1973, pp. 27291–2; June 10, 1977, p. 1802; June 28, 1988, p. ——, p. ——), or earmarks for unauthorized purposes (July 17, 1985, p. 19435; July 17, 1986, p. ——), or earmarks by directing a new use of funds not required by law (July 26, 1985, p. 20811, 20813). An amendment to a general appropriation bill is not subject to a point of order as adding legislation if containing, verbatim, a legislative provision already contained in the bill and permitted to remain (Aug. 27, 1980, p. 23519).

§ 842g. Senate amendments.

The principle seems to be generally well accepted that the House proposing legislation on a general appropriation bill should recede if the other House persists in its objection (IV, 3904–3908), and Rule XX, clause 2 (§ 829, supra) prohibits House conferees from agreeing to a Senate amendment which proposes legislation on an appropriation bill without specific authority from the House. But where a Senate amendment proposing legislation on a general appropriation bill is, pursuant to the edict of Rule XX, clause 2, reported back from conference in disagreement, a motion to concur in the Senate amendment with a further amendment is in order, even if the proposed amendment adds legislation to that contained in the Senate amendment, and the only test is whether the proposed amendment is germane to the Senate amendment reported in disagreement (IV, 3909; VIII, 3188, 3189; Dec 15, 1970, pp. 41504–05; Aug. 2, 1979, pp. 22007–11).

§ 843a. Limitations on appropriation bills generally.

Although the rule forbids on any general appropriation bill a provision "changing existing law," which is constructed to mean legislation generally, the House's practice has established the principle that certain "limitations" may be admitted. Its being established that the House under its rules may decline to appropriate for a purpose authorized by law, so it may by limitation prohibit the use of the money for part of the purpose while appropriating for the remainder of it (IV, 3936; VII, 1595). The language of the limitation provides that no part of the appropriation under consideration shall be used for a certain designated purpose (IV, 3917–3926; VII, 1580). And this designated purpose may reach the question of qualifications, for while it is not in order to legislate as to the qualifications of the recipients of an appropriation the House may specify that no part of the appropriation shall go to recipients lacking certain qualifications (IV, 3942–3952; VII, 1655; June 4, 1970, pp. 18412–13; June 27, 1974, p. 21662; Oct. 9, 1974, p. 34712; June 9, 1978, p. 16990). The limitation must apply solely to the money of the appropriation under consideration (VII, 1597, 1600, 1720; Feb. 26, 1958, p. 2895), and may not be made applicable to money appropriated in other acts (IV, 3927, 3928; VII, 1495, 1525; June 28, 1971, pp. 22442–43; June 27, 1974, pp. 21670–2; May 13, 1981, p. 9663), and may not require funds available to an agency in any future fiscal year for a certain purpose be subject to limitations specified in advance in appropriations Acts (May 8, 1986, p. ——). A restriction on authority to incur obligations is legislative in nature and not a limitation on funds (July 13, 1987, p. ——).

The fact that existing law authorizes funds to be available until expended or without regard to fiscal year limitation does not prevent the Committee on Appropriations from limiting their availability to the fiscal year covered by the bill unless existing law mandates availability beyond the fiscal year (June 25, 1974, p. 21040). (See also, Deschler's Procedure, ch. 25, §§ 9–17). The fact that a provision would constitute legislation for only a year does not make it a limitation in order under the rule (IV, 3936). Nor may a proposition to construe a law be admitted (IV, 3936–3938). Care should also be taken that the language of limitation be not such as, when fairly construed, would change existing law (IV, 3976–3983) or justify an executive officer in assuming an intent to change existing law (IV, 3984; VII, 1706). Although the Committee on Appropriations may include in a general appropriation bill language not in existing law limiting the use of funds in the bill, if such language also constitutes an appropriation it must be authorized by law (June 21, 1988, p. ——).

§ 843b. Effect of limitation on executive discretion.

The limitation may not be applied directly to the official functions of executive officers (IV, 3957–3966; VII, 1673, 1678, 1685), but it may restrict executive discretion so far as this may be done by a simple negative on the use of the appropriation (IV, 3968–3972; VII 1583, 1653, 1694; Sept. 14, 1972, pp. 30749–50; June 21, 1974, pp. 20601–2; Oct. 9, 1974, p. 34716). An appropriation may be withheld from a designated object by a negative limitation on the use of funds, although contracts may be left unsatisfied thereby (IV, 3987; July 10, 1975, p. 22005); but coupling a denial of an appropriation with a negative restriction on official duties constitutes by reason of the use of a double negative an affirmative direction and is not in order (VII, 1690–1692).

But such limitations must not give affirmative directions (IV, 3854–3859, 3975; VII, 1637), and must not impose new duties upon an executive officer (VII, 1676; July 31, 1969, pp. 21631–33; June 11, 1968, p. 16712); and may not directly interfere with discretionary authority in law by establishing a level of funding below which expenditures may not be made (VII, 1704; July 20, 1978, p. 21856).

In construing a proposed limitation, if the Chair finds the purpose to be legislative, in that the intent is to restrict executive discretion to a degree that may be fairly termed a change in policy rather than a matter of administrative detail, he should sustain the point of order (VII, 1691), as where a limitation is accompanied by language stating a legislative motive or purpose in carrying out the limitation (Aug. 8, 1978, p. 24969), but language in a general appropriation bill may, by negatively refusing to include funds for all or part of an authorized executive function, thereby affect policy to the extent of its denial of availability of funds (VII, 1694; Oct. 9, 1974, p. 34716). It is not in order, even by language in the form of a limitation, to restrict not the use or amount of appropriated funds, but the discretionary authority conferred by law to administer their expenditure (such as the percentage of funds which may be apportioned for expenditure within a certain period of time) (June 25, 1980, pp. 16815-7; July 28, 1980, pp. 19924-5). As long as a limitation on the use of funds restricts the expenditure of Federal funds carried in the bill without changing existing law, the limitation is in order, even if the Federal funds in question are commingled with non-Federal funds which would have to be accounted for separately in carrying out the limitation (Aug. 20, 1980, p. 22171-2). An amendment providing that no Federal funds provided in the District of Columbia general appropriation bill be used to perform abortions is not legislation, since Federal officials have the responsibility to account for all appropriations for the annual Federal payment and for disbursement of all taxes collected by the District of Columbia, pursuant to the D.C. Code (July 17, 1979, p. 19066).

§ 843c. Limitations consistent with existing law.

An amendment denying the use of funds in the bill to pay the salaries of federal officials who perform certain functions under existing law is a proper limitation if the description of those duties precisely follows existing law and does not require them to perform new duties (June 24, 1976, p. 20373), just as an amendment denying such funds to a Federal official not in compliance with an existing law which he is charged with enforcing is a valid limitation placing no new duties on that Federal official (Sept. 10, 1981, p. 20110). The fact that a limitation on the use of funds may indirectly interfere with an executive official's discretionary authority by denying the use of funds (June 24, 1976, p. 20408) or may impose certain incidental burdens on executive officials (Aug. 25, 1976, p. 27737) does not destroy the character of the limitation as long as it does not directly amend existing law and is descriptive of functions and findings already required to be undertaken by existing law. As it is in order by way of a limitation to deny the use of funds for implementation of an executive order, an amendment precisely describing the contents of the executive order does not constitute legislation solely for that reason (Mar. 16, 1977, p. 7748). And the fact that the regulation for which funds are denied may have been promulgated pursuant to court order and pursuant to constitutional provisions is an argument on the merits of the amendment and does not render it legislative in nature (Aug. 19, 1980, pp. 21981–4). An amendment prohibiting the use of funds to carry out any ruling of the Internal Revenue Service which rules that taxpayers are not entitled to certain charitable deductions was held in order as a limitation, since merely descriptive of an existing ruling already promulgated and not requiring any new determinations as to the applicability of the limitation to other categories of taxpayers (July 16, 1979, pp. 18808–10). An amendment reducing the availability of funds for trade adjustment assistance by amounts of unemployment insurance entitlements was held in order where the law establishing trade adjustment assistance already required the disbursing agency to take into consideration levels of unemployment insurance in determining payment levels (June 18, 1980, pp. 15355–6). An exception stating that the limitation does not prohibit the use of funds for designated Federal activities which are already authorized by law in more general terms, was held in order as not containing legislation (June 27, 1979, pp. 17033–5), as was an exception from a valid limitation prohibiting construction of that limitation in such a way as to prevent funding of a particular authorized activity (Mar. 24, 1944, p. 3095). The following amendments also have been in order: denying use of funds to eliminate an existing legal requirement for sureties on custom bonds (June 27, 1984, p. ——); denying use of funds by any federal official in any manner which would prevent a provision of existing law from being enforced (relating to import restrictions) (June 27, 1984, p. ——); and denying use of funds for any reduction in Customs Service regions or for any consolidation of Customs Service offices (June 27, 1984, p. ——). An amendment in the form of a limitation prohibiting the use of funds in a general appropriation bill for the construction of certain facilities unless such construction were subject to a project agreement was held not in order during the reading of the bill, even though existing law directed federal officials to enter into such project agreements, on the ground that limitation amendments are in order during the reading only where existing law requires or permits the inclusion of limiting language in an appropriation Act, and not merely where the limitation is alleged to be "consistent with existing law" (June 28, 1988, p. ——).

"HOLMAN RULE," RETRENCHING EXPENDITURE

§844a. Legislation reducing expenditures.

Decisions under the so-called "Holman Rule" in clause 2 of Rule XXI have been rare in the modern practice of the House. The trend in construing language in general appropriation bills or amendments thereto has been to minimize the importance of the "Holman Rule" in those cases where the decision can be made on other grounds. The practice of using limitations in appropriation bills has been perfected in recent years so that most modern decisions by the Chair deal with distinctions between such limitations and matters which are deemed to be legislation (see § 842 and § 843). Under the modern practice, the "Holman Rule" only applies where an obvious reduction is achieved by the provision in question and does not apply to limiting language unaccompanied by a reduction of funds in the bill (July 16, 1979, pp. 18808–10). It has no application to an amendment to an appropriation bill which does not legislate but is merely a negative limitation citing but not changing existing law (June 18, 1980, pp. 15355–6).

A paragraph containing legislation reported in an appropriation bill to be in order must on its face show a retrenchment of a type which conforms to the requirements of the rule (Chairman Lehlbach, Mar. 17, 1926, p. 5804).

The reduction of expenditure must appear as a necessary result, in order to bring an amendment or provision within the exception to the rule. It is not sufficient that such reduction would probably, or would in the opinion of the Chair, result therefrom (IV, 3887; VII, 1530–1534). Thus, an amendment to a general appropriation bill providing that appropriations made in that act are hereby reduced by $7 billion, though legislative in form, was held in order under the Holman Rule exception (Apr. 5, 1966, p. 7689), but an amendment providing for certain reductions of appropriations carried in the bill based on the President's budget estimates was held not to show a reduction on its face and to provide merely speculative reductions (May 17, 1951, pp. 5477–8). An amendment authorizing the President to reduce each appropriation in the bill by not more than ten percent was ruled out as legislation conferring new authority on the President (May 31, 1984, p. ——; June 6, 1984, p. ——). An amendment reducing an unauthorized amount permitted to remain in a general appropriation bill is in order as a retrenchment under this clause (Oct. 1, 1975, p. 31058). An amendment to a general appropriation bill denying the availability of funds to certain recipients but which requires federal officials to make additional determinations as to the qualifications of recipients is legislation and is not a retrenchment of expenditures where it is not apparent that the prohibition will reduce the amounts covered by the bill (June 26, 1973, p. 21389).

The amendment must not only show on its face an attempt to retrench but must also be germane to some provision in the bill even though offered by direction of the committee having jurisdiction of the subject matter of the amendment (December 16, 1911, p. 442; VII, 1549). An amendment providing that appropriations "herein and heretofore made" shall be reduced by $70 million through the reduction of Federal employees as the President determines was held to be legislative and not germane to the bill, since it went to funds other than those carried therein, and was therefore not within the Holman rule exception (Oct. 18, 1966, p. 27425).

An amendment reducing an amount in an appropriation bill for the Postal Service and prohibiting the use of funds therein to implement special bulk third-class rates for political committees was held in order since not specifically requiring new determination and since constituting a retrenchment of expenditures even if assumed to be legislative (July 13, 1979, pp. 18453–5).

As long as an amendment calls for an obvious reduction at some point in time during the fiscal year, the amendment is in order under the "Holman Rule" even if the reduction takes place in the future in an amount actually determined when the reduction takes place (for example, by formula) (VII, 1491, 1505; July 30, 1980, pp. 20499–503). And to an amendment which is in order under the "Holman Rule," containing legislation but retrenching expenditures by formula for every agency funded by the bill, an amendment exempting from that reduction several specific programs does not add further legislation and is in order (July 30, 1980, pp. 20499–503).

A motion to recommit the District of Columbia appropriation bill with instructions to reduce the proportion of the fund appropriated from the Public Treasury from one-half, as provided in the bill, to one-fourth of the entire appropriation is in order, since the effect of the amendment if adopted would reduce the expenditure of public money although not reducing the amount of the appropriation (VII, 1518).

The term "retrenchment" means the reduction of the amount of money to be taken out of the Federal Treasury by the bill, and therefore a reduction of the amount of money to be contributed toward the expenses of the District of Columbia is in order as a retrenchment (VII, 1502).

An amendment proposed to an item for the recoinage of uncurrent fractional silver, which amendment struck out the amount appropriated and added a provision for the coinage of all the bullion in the Treasury into standard silver dollars, the cost of such coinage and recoinage to be paid out of the Government's seigniorage, was held not to be in order under the rule; first, because not germane to the subject matter of the bill (the sundry civil); second, because it did not appear that any retrenchment of expenditure would result, the seigniorage being the property of the Government as other funds in the Treasury (VII, 1547).

To an item of appropriation for inland transportation of mails by star routes an amendment was offered requiring the Postmaster General to provide routes and make contracts in certain cases, with the further provision "and the amount of appropriation herein for star routes is hereby reduced to $500." A point of order made against the first or legislative part of the amendment was sustained, which decision was, on appeal, affirmed by the committee (VII, 1555).

To a clause appropriating for the foreign mail service an amendment reducing the appropriation, and in addition repealing the act known as the "subsidy act," was held not in order because the repealing of this act was not germane to the appropriation bill; and that to be in order both branches of the amendment must be germane to the bill (VII, 1548).

A provision in the agricultural appropriation bill transferring the supervision of the importation of animals from the Treasury to the Department of Agriculture is out of order, being a provision changing law and not retrenching expenditure (IV, 3886).

Where a paragraph containing new legislation provides in one part for a discharge of employees, which means a retrenchment, and in another part embodies legislation to bring about the particular retrenchment which in turn shows on its face an expenditure the amount of which is not apparent, the Chair is unable to hold that the net result will retrench expenditures. But where the additional legislation does not show on its face an additional expenditure, the Chair will not speculate as to a possible expenditure under the additional legislation (VII, 1500).

As explained in the annotation in § 834, supra, paragraph (b) of clause 2 as amended in the 98th Congress narrowed the "Holman Rule" exception from the prohibition against legislation to cover only retrenchments reducing amounts of money covered by the bill, and not retrenchments resulting from reduction of the number and salary of officers of the United States or of the compensation of any person paid out of the U.S. Treasury. Paragraph (b) also eliminated separate authority conferred upon legislative committees or commissions with proper jurisdiction to report amendments retrenching expenditures, and permitted legislative committees to recommend such retrenchments by reduction of amounts covered by the bill to the Appropriations Committee for discretionary inclusion in the reported bill. Paragraph (d) as added in the 98th Congress provides a new procedure for consideration of all retrenchment amendments only when reading of the bill has been completed and only if the Committee of the Whole does not adopt a motion to rise and report the bill back to the House. Other decisions which involved interpretation of the Holman Rule, but which do not reflect the current form or interpretation of that rule, are found in IV, 3846, 3885–3892; VII, 1484, 1486–1492, 1498, 1500, 1515, 1563, 1564, 1569; and June 1, 1892, p. 4920.

§ 844b. 3. A report from the Committee on Appropriations accompanying any general appropriation bill making an appropriation for any purpose shall contain a concise statement describing fully the effect of any provision of the accompanying bill which directly or indirectly changes the application of existing law.

This clause became a part of the rules effective January 3, 1975 (H. Res. 988, 93d Congress, p. 34470), and the subsequent clauses of this rule were renumbered at that time. This clause was amended on January 14,

1975 (H. Res. 5, 94th Congress, p. 32) to confine its applicability to general appropriation bills.

§ 845. Restriction on the reference of claims.

4. No bill for the payment or adjudication of any private claim against the Government shall be referred, except by unanimous consent, to any other than the following committees, namely: To the Committee on Foreign Affairs or to the Committee on the Judiciary.

The present form of this clause was made effective January 2, 1947, as a part of the Legislative Reorganization Act of 1946 (60 Stat. 812), was further amended on March 19, 1975 to reflect the change of the name of the Committee on Foreign Affairs to International Relations by H. Res. 163 (p. 7343), and was again amended on February 5, 1979 to change International Relations back to Foreign Affairs (H. Res. 89, pp. 1848–9). The old rule, adopted in 1885 and amended May 29, 1936, provided that private claims bills be referred to a Committee on Invalid Pensions, Claims, War Claims, Public Lands, and Accounts, in addition to the Committees on Foreign Affairs and Judiciary. Certain private bills, resolutions and amendments are barred (§ 852). Under this clause unanimous consent is required for the reference of a bill for the payment of a private claim to a committee other than the Committee on the Judiciary or the Committee on Foreign Affairs (May 4, 1978, p. 12615).

§ 846a. Restriction of power to report appropriations.

5. (a) No bill or joint resolution carrying appropriations shall be reported by any committee not having jurisdiction to report appropriations, nor shall an amendment proposing an appropriation be in order during the consideration of a bill or joint resolution reported by a committee not having that jurisdiction. A question of order on an appropriation in any such bill, joint resolution, or amendment thereto may be raised at any time.

This portion of the rule was adopted June 1, 1920 (VII, 2133).

A point of order under this rule cannot be raised against a motion to suspend the rules (VIII, 3426), against a motion to discharge a nonappropriating committee from consideration of a bill carrying an appropriation (VII, 2144), or against a Senate amendment to an appropriation bill (VII, 1572), but it may be directed against an item of appropriation in a Senate bill (VII, 2136, 2147, July 30, 1957, pp. 13056, 13181–2), and if the House deletes a provision in a Senate bill under this rule, the bill is messaged to the Senate with the deletion in the form of an amendment. The point of order may be made against an appropriation in a Senate bill under consideration even though the bill has not been reported by a committee of the House (VII, 2137; Mar. 29, 1933, p. 988). This clause applies to an amendment proposed to a Senate amendment to a House bill not reported from the Committee on Appropriations (Oct. 1, 1980, pp. 28638–42). The rule does not apply to private bills since the committees having jurisdiction of bills for the payment of private claims may report bills making appropriations within the limits of their jurisdiction (VII, 2135, Dec. 12, 1924, p. 538). The point of order under this rule does not apply to an appropriation in a bill which has been taken away from a nonappropriating committee by a motion to discharge (VII, 1019a).

The provision in this clause that a point of order against an amendment containing an appropriation to a legislative bill may be made "at any time" has been interpreted to require that the point of order be raised during the pendency of the amendment under the five-minute rule (Mar. 18, 1946, p. 2365; Apr. 28, 1975, pp. 12043–4), and a point of order will lie against an amendment during its pendency, even in its amended form, although the point of order is against the amendment as amended by a substitute and no point of order was raised against the substitute prior to its adoption (Apr. 23, 1975, p. 12043). But the point of order must be raised during the initial consideration of the bill or amendment under the five-minute rule, and a point of order against similar language permitted to remain in the House version and included in a conference report on a bill will not lie, since the only rule prohibiting such inclusion (Rule XX, clause 2) is limited to language originally contained in a Senate amendment where the House conferees have not been specifically authorized to agree thereto (May 1, 1975, p. 12752). Where the House has adopted a resolution waiving points of order against certain appropriations in a legislative bill, a point of order may nevertheless be raised against an amendment to the bill containing an identical provision, since under this rule a point of order may be raised against the amendment "at any time" (Apr. 23, 1975, p. 11512). A point of order against a direct appropriation in a bill initially reported from a legislative committee and then sequentially referred to and reported adversely by the Committee on Appropriations was conceded and sustained as in violation of this clause (Nov. 10, 1975, p. 35611).

The point of order should be directed to the item of appropriation in the bill and not to the act of reporting the bill (VII, 2143), and cannot be directed to the entire bill (VII, 2142, Apr. 28, 1975, p. 12043).

The point of order provided for in this clause is not applicable to propositions authorizing the Secretary of the Treasury to use proceeds from the sale of bonds under the Second Liberty Bond Act (public debt transactions) for the purpose of making loans, since such loans do not constitute "appropriations" within the purview of the rule (June 28, 1949, pp. 8536-38; Aug. 2, 1950, p. 11599), and is not applicable to language exempting loan guarantees in a legislative bill from statutory limitations on expenditures (July 16, 1974, p. 23344). Legislation authorizing the availability of certain loan receipts is not an appropriation where it can be shown that the actual availability of those receipts remains contingent upon subsequent enactment of an appropriation act (Sept. 10, 1975, p. 28300). The term "appropriation" in the rule means the payment of funds from the Treasury, and the words "warranted and make available for expenditure for payments" are equivalent to "is hereby appropriated" and therefore not in order (VII, 2150). The words "available until expended," making an appropriation already made for one year available for ensuing years, are not in order (VII, 2145). Language reappropriating, making available, or diverting an appropriation or a portion of an appropriation already made for one purpose to another is not in order (VII, 2146; Mar. 29, 1933, p. 988; Aug. 10, 1988, p. ——). An amendment expanding the definition in existing law of recipients under a federal subsidy program was held to permit a new use of funds already appropriated in violation of this clause (May 11, 1976, pp. 13409-11); and a provision in a legislative bill authorizing the use, without a subsequent appropriation, of funds directly appropriated by a previous statute for a new purpose constitutes an appropriation prohibited by this clause (Oct. 1, 1980, pp. 28637-40). But a modification of such a provision making payments for such new purposes "effective only to the extent and in such amounts as are provided in advance in appropriation acts" does not violate this clause (Oct. 1, 1980, pp. 28638-42). A direction to a departmental officer to pay a certain sum out of unexpended balances is equivalent to an appropriation and not in order (VII, 2154). Language authorizing the use of funds of the Shipping Board is not in order (VII, 2147). A direction to pay out of Indian trust funds is not in order (VII, 2149). A provision in an authorization bill making excess foreign currencies immediately available for a new purpose is in violation of clause 5, Rule XXI (Aug. 3, 1971, pp. 29109-10). Provisions authorizing the collection of fees or user charges by Federal agencies and making the revenues collected therefrom available without further appropriation have been ruled out in violation of this clause (June 17, 1937, pp. 5915-18; Mar. 29, 1972, pp. 10749-51), and the transfer of existing federal funds into a new Treasury trust fund to be immediately available for a new purpose has been construed as an appropriation (June 20, 1974, pp. 20273-5), as has a provision in a legislative bill transferring unexpended balances of appropriations from an existing agency to a new agency created therein (Apr. 9, 1979, pp. 7774-5). A provision in an omnibus reconciliation bill reported by the

Budget Committee pursuant to sec. 310(c)(2) of the Budget Act upon recommendation from the Committee on Energy and Commerce making a direct appropriation to carry out a part of the Energy Security Act was ruled out in violation of this clause (Oct. 24, 1985, p. 28312). An amendment requiring the diversion of previously appropriated funds in lieu of the enactment of new budget authority if a maximum deficit amount under the Deficit Control Act of 1985 is exceeded, though its stated purpose may be to avoid the sequestration of funds, may nevertheless be in violation of clause 5(a) as an appropriation on a legislative bill (Aug. 10, 1988, p. ——).

An amendment increasing the duties of a commission is not necessarily an appropriation (VII, 1578). Language authorizing payment from an appropriation to be made or authorizing payment from an appropriation that has not yet been made is in order (Jan. 31, 1923, p. 2794). Section 401(a) of the Congressional Budget Act of 1974 (88 Stat. 317) prohibits consideration in the House of any bill or resolution or amendment which provides new spending authority (as that term is defined in that section) unless that measure also provides that such new spending authority is to be available only to the extent provided in appropriation Acts (see § 1007, infra). See also Procedure ch. 25, § 3, for appropriations on legislative bills generally.

§ 846b. Restriction on bills and amendments carrying taxes or tariffs.

(b) No bill or joint resolution carrying a tax or tariff measure shall be reported by any committee not having jurisdiction to report tax and tariff measures, nor shall an amendment in the House or proposed by the Senate carrying a tax or tariff measure be in order during the consideration of a bill or joint resolution reported by a committee not having that jurisdiction. A question of order on a tax or tariff measure in any such bill, joint resolution, or amendment thereto may be raised at any time.

Paragraph (b) was added in the 98th Congress (H. Res. 5, Jan. 3, 1983, p. 34). A point of order under this clause against a provision in a bill is in order at any time during consideration of the bill for amendment in Committee of the Whole (Aug. 1, 1986, p. ——). In determining whether a limitation in a general appropriation bill constitutes a tax or tariff measure proscribed by this clause, the Chair will consider argument as to the certainty of impact on revenue collections and tax status or liability

(Aug. 1, 1986, p. ——). To a bill reported from the Committee on Education and Labor authorizing financial assistance to unemployed individuals for employment opportunities, an amendment providing instead for tax incentives to stimulate employment was held to be a tax measure offered to a bill not reported by a committee with jurisdiction over tax measures in violation of this clause (Sept. 21, 1983, p. ——). A limitation on the use of funds contained in a general appropriation bill was held to violate this clause, since the limitation had the effect of requiring the collection of revenues not otherwise provided for by law (denying the use of funds by the Customs Service to enforce duty-free entry laws with respect to certain imported commodities) (Oct. 27, 1983, p. ——), or where it was shown that the imposition of the restriction on IRS funding for the fiscal year would effectively and inevitably preclude the IRS from collecting revenues otherwise due and owing by law or require collection of revenue not legally due or owing (Aug. 1, 1986, pp. ——, ——; July 26, 1985, p. 20806). In the 98th Congress, the Chair sustained points of order under this clause against motions to concur in three Senate amendments to a general appropriation bill (not reported by the Committee on Ways and Means): (1) an amendment denying use of funds in that or any other Act by the Internal Revenue Service to impose or assess any tax due under a designated provision of the Internal Revenue Code (thereby rendering the tax uncollectable through the use of any funds available to the agency); (2) an amendment directing the Secretary of the Treasury to admit free of duty certain articles imported by a designated organization; and (3) an amendment to the Tariff Act of 1930 to expand the authority of the Customs Service to seize and use the proceeds from the same of contraband imports to defray operational expenses, and to offset owed customs duties under one section of that law (Sept. 12, 1984, p. ——, p. ——, and p. ——). A provision in a bill reported from the Committee on Foreign Affairs imposing a uniform fee at ports of entry to be collected by the Customs Service as a condition of importation of a commodity was held to constitute a tariff within the meaning of this clause (June 4, 1985, p. 14009), as was an amendment to a bill reported from that committee amending the tariff schedules to deny "most favored nation" trade treatment to a certain nation (July 11, 1985, p. 18590). Provisions in a reconciliation bill reported from the Budget Committee (1) containing a recommendation from the Committee on Education and Labor excluding certain interest on obligations from the Student Loan Marketing Association from application of the Internal Revenue Code, affecting interest deductions against income taxes, and (2) containing a recommendation from the Committee on Merchant Marine and Fisheries expanding tax benefits available to shipowners through a capital construction fund, were ruled out as tax measures not reported from the Committee on Ways and Means (Oct. 24, 1985, pp. 28776, 28827; pp. 28802, 28827). A motion to concur in a Senate amendment constituting a tariff measure (imposing an import ban on certain dutiable goods) to a bill reported by a committee not having tariff jurisdiction was ruled out under clause 5(b) (Sept. 30, 1988, p. ——).

§ 847. Reappropriations prohibited.

6. No general appropriation bill or amendment thereto shall be received or considered if it contains a provision reappropriating unexpended balances of appropriations; except that this provision shall not apply to appropriations in continuation of appropriations for public works on which work has commenced, and shall not apply to transfers of unexpended balances within the department or agency for which they were originally appropriated, reported by the Committee on Appropriations.

This provision from Sec. 139(c) of the Legislative Reorganization Act of 1946 (60 Stat. 812) was made part of the standing rules January 3, 1953, p. 24. Prior to the adoption of this rule in 1946, a reappropriation of an unexpended balance for an object authorized by law was in order on a general appropriation bill (IV, 3591, 3592; VII, 1156, 1158). This clause was amended in the 99th Congress by sec. 228(b) of P.L. 99-177, the Balanced Budget and Emergency Deficit Control Act of 1985 (Dec. 12, 1985) to permit the Committee on Appropriations to report certain transfers of unexpended balances.

A provision in a general appropriation bill, or an amendment thereto, providing that funds for a certain purpose are to be derived by continuing the availability of funds previously appropriated for a prior fiscal year, is in violation of clause 6, Rule XXI (Aug. 20, 1951, pp. 10393–94; Mar. 29, 1960, p. 6862; June 17, 1960, p. 13138; June 20, 1973, pp. 20530–31; July 29, 1982, p. 18625; June 28, 1988, p. ——), and a reappropriation of unexpended prior year balances, prohibited by this clause, is not in order under the guise of a Holman Rule exception to clause 2, Rule XXI (Oct. 18, 1966, pp. 27424-5). An amendment to a general appropriation bill making any appropriations which are available for the current fiscal year available for certain new purposes was held out of order under this clause since it was not confined to the funds in the bill and would permit reappropriation of unexpended balances (Oct. 1, 1975, p. 31090).

This rule, however, is not applicable when the reappropriation language is identical to legislative authorization language enacted subsequent to the adoption of the rule, since the law is a more recent expression of the will of the House (Sept. 5, 1961, p. 18133), nor when a measure transferring unobligated balances of previously appropriated funds contains legislative provisions and rules changes but no appropriation of new budget authority and is neither in the form of an appropriation bill nor the subject of a privileged report by the Committee on Appropriations under Rule XI (Mar. 3, 1988, p. ——).

The return of an unexpended balance to the Treasury is in order (IV, 3594).

§ 848. Printed hearings and reports on appropriation bills.

7. No general appropriation bill shall be considered in the House until printed committee hearings and a committee report thereon have been available for the Members of the House for at least three calendar days (excluding Saturdays, Sundays, and legal holidays).

This provision from Sec. 139 (a) of the Legislative Reorganization Act of 1946 was made a part of the standing rules January 3, 1953, p. 24, and was amended (by the addition of the parenthetical clause) on January 22, 1971, p. 144. In counting the "three calendar days" specified in the clause, the date the bill is filed or the date on which it is to be called up for consideration are counted, but not both (May 26, 1969, pp. 13720–21). Clause 2(l)(6) of Rule XI became applicable to all other reports from the Committee on Appropriations effective January 3, 1975 (H. Res. 988, 93d Cong., p. 34470).

RULE XXII.

OF PETITIONS, MEMORIALS, BILLS, AND RESOLUTIONS.

§ 849a. Introduction and reference of petitions, memorials, and private bills.

1. Members having petitions or memorials or bills of a private nature to present may deliver them to the Clerk, endorsing their names and the reference or disposition to be made thereof; and said petitions and memorials and bills of a private nature, except such as, in the judgment of the Speaker, are of an obscene or insulting character, shall be entered on the

Journal, with the names of the Members presenting them, and the Clerk shall furnish a transcript of such entry to the official reporters of debates for publication in the Record.

At the first organization of the House in 1789 the rules then adopted provided for the presentation of petitions to the House by the Speaker and Members, and for the introduction of bills by motion for leave. In 1842 it was found necessary, in order to save time, to provide that petitions and memorials should be filed with the Clerk. In 1870, 1879 and 1887 the practice as to petitions was extended to private bills, at first as to certain classes and later so that all should be filed with the Clerk (IV, 3312, 3365; VII, 1024).

§ 849b. Duties of Speaker and Members in presenting petitions.

Petitions, memorials, and other papers addressed to the House may be presented by the Speaker as well as by a Member (IV, 3312). Petitions from the country at large are presented by the Speaker in the manner prescribed by the rule (III, 2030; IV, 3318; VII, 1025). A Member may present a petition from people of a State other than his own (IV, 3315, 3316). The House itself may refer one portion of a petition to one committee and another portion to another committee (IV, 3359, 3360), but ordinarily the reference of a petition does not come before the House itself. A committee may receive a petition only through the House (IV, 4557).

§ 850. As to division of bills for reference.

The parliamentary law provides that the House may commit a portion of a bill, or a part to one committee and part to another (V, 5558), yet under the practice of the House until January 3, 1975, a bill or joint resolution could not be divided for reference, although it might contain matters properly within the jurisdiction of several committees (IV, 4372, 4376). On that date, the Speaker was given authority over referral of bills as prescribed in clause 5, Rule X.

§ 851. Fraudulent introduction of a bill.

The fraudulent introduction of a bill involves a question of privilege, and a bill so introduced was ordered stricken from the files (IV, 3388). As the result of the unauthorized introduction of several bills without the knowledge of the Members listed as sponsors, the Speaker directed that all bills and resolutions must be signed by the prime sponsor thereof in order to be accepted for introduction (Speaker Albert, Feb. 3, 1972, p. 2521).

§ 852. Certain private bills prohibited.

2. No private bill or resolution (including so-called omnibus claims or pension bills), and no amendment to any

bill or resolution, authorizing or directing (1) the payment of money for property damages, for personal injuries or death for which suit may be instituted under the Tort Claims Procedure as provided in Title 28, United States Code, or for a pension (other than to carry out a provision of law or treaty stipulation); (2) the construction of a bridge across a navigable stream; or (3) the correction of a military or naval record, shall be received or considered in the House.

This provision from Sec. 131 of the Legislative Reorganization Act of 1946 (60 Stat. 812) was made a part of the standing rules January 3, 1953, p. 24. The prohibition in this clause relative to correction of a military record does not apply to a private bill which changes the computation of retired pay for a former member of the armed services (after exhaustion of administrative remedies), but which does not directly correct his military record (Sept. 18, 1984, p. ——).

§ 853. Correction of errors in reference; and relation to jurisdiction.

3. Any petition or memorial or private bill excluded under this rule shall be returned to the Member from whom it was received; and petitions and private bills which have been inappropriately referred may, by the direction of the committee having possession of the same, be properly referred in the manner originally presented; and an erroneous reference of a petition or private bill under this clause shall not confer jurisdiction upon the committee to consider or report the same.

This clause of the rule was first adopted in 1880, although the portion relating to the return of certain petitions and bills was adapted from an older rule of 1842 (IV, 3312, 3365).

Errors in reference of petitions, memorials, or private bills are corrected at the Clerk's table, without action by the House, at the suggestion of the committee holding possession (IV, 4379). As provided in the rule, the erroneous reference of a private House bill does not confer jurisdiction, and a point of order is good when the bill comes up for consideration either in the House or in Committee of the Whole (IV, 4382–4389). But in cases wherein the House itself refers a private House or Senate bill a point of order may not be raised as to jurisdiction (IV, 4390, 4391; VII, 2131). The Speaker may correct the erroneous referral of a bill as private by referring it to the appropriate (Union) calendar as a public bill when reported (June 1, 1988, p. ——).

§ 854. Introduction, reference, and change of reference of public bills, memorials, and resolutions.

4. (a) All other bills, memorials, and resolutions may, in like manner, be delivered, indorsed with the names of Members introducing them, to the Speaker, to be by him referred, and the titles and references thereof and of all bills, resolutions, and documents referred under the rules shall be entered on the Journal and printed in the Record of the next day, and correction in case of error of reference may be made by the House, without debate, in accordance with Rule X on any day immediately after the reading of the Journal, by unanimous consent, or on motion of a committee claiming jurisdiction, or on the report of the committee to which the bill has been erroneously referred. Two or more Members may introduce jointly any bill, or resolution to which this paragraph applies.

(b) (1) The name of any Member shall be added as a sponsor of any bill or resolution to which paragraph (a) applies, and shall appear as a sponsor in the next printing of that bill or resolution: *Provided,* That a request signed by such Member is submitted by the first sponsor to the Speaker (in the same manner as provided in paragraph (a)) no later than the day on which the last committee authorized to consider and report such bill or resolution reports it to the House.

(2) The name of any Member listed as a sponsor of any such bill or resolution may be deleted by unanimous consent, but only at the request of such Member, and such deletion shall be indicated in the next printing of the bill or resolution (together with the date on which such name was deleted). Such consent may be granted no later than the day on which the last committee authorized to consider and report such bill or resolution reports it to the House: *Provided, however,* That the Speaker shall not entertain a request to delete the name of the first sponsor of any bill or resolution.

(3) The addition of the name of any Member, or the deletion of any name by unanimous consent, of a sponsor of any such bill or resolution shall be entered on the Journal and printed in the Record of that day.

(4) Any such bill or resolution shall be reprinted (A) if the Member whose name is listed as the first sponsor submits to the Speaker a written request that it be reprinted, and (B) if twenty or more Members have been added as sponsors of that bill or resolution since it was last printed.

The rule of 1789 provided that all bills should be introduced on report of a committee or by motion for leave. By various modifications it was first provided that all classes of private bills should be introduced by filing them with the Clerk, and in 1890 this system was by this rule extended to all public bills (IV, 3365).

The motion for a change of reference and subsidiary motions take precedence over motions to go into the Committee of the Whole for the consideration of appropriation bills and the consideration of conference reports (VII, 2124), and may not be debated (VII, 2126–2128). But the motion is not in order on Calendar Wednesday (VII, 2117), and is not privileged under the rule if the original reference was not erroneous (VII, 2125). The motion may be amended, but the amendment, like the original motion, is subject to the requirement that it be authorized by the committee (VII, 2127). The motion must apply to a single bill and not to a class of bills (VII, 2125).

According to the later practice the erroneous reference of a public bill, if it remain uncorrected, in effect gives jurisdiction to the committee receiving it (IV, 4365–4371; VII, 1489, 2108–2113; VIII, 2312). And it is too late to move a change of reference after such committee has reported the bill (VII, 2110; VIII, 2312), but the Speaker may, pursuant to authority granted him by clause 5, Rule X effective January 3, 1975 (H. Res. 988, 93d Congress, p. 34470), refer a bill sequentially to other committees. All bills and resolutions must be signed by the prime sponsor thereof (Speaker Albert, Feb. 3, 1972, p. 2521).

Joint sponsorship of public bills by not more than 25 Members was authorized by H. Res. 42, April 25, 1967. Prior thereto a special committee had reported against this practice and the report had been adopted by the House (VII, 1029).

Effective Jan. 3, 1979 (H. Res. 86, 95th Cong., Oct. 10, 1978, p. 34929) clause 4(b) was added to allow unlimited co-sponsorship and to provide a mechanism for Members to add their names as co-sponsors to bills or resolutions which have already been introduced, up until the bill is finally reported from committee, and on January 15, 1979, the Speaker announced his directive for the processing of lists of co-sponsors pursuant to the new clause (Speaker O'Neill, Jan 15, 1979, p. 19). Although paragraph (b)(2) of this clause only permits a co-sponsoring Member himself to request unanimous consent for his deletion as a co-sponsor, the prime sponsor of a measure may be permitted to request unanimous consent to delete the name of a co-sponsor he has inadvertently or erroneously listed (Feb. 9, 1982). By unanimous consent, a Member may add his own name as a co-sponsor of an unreported bill where the original sponsor is no longer a Member of the House (Aug. 4, 1983, p. ——). The Chair will not entertain a unanimous consent request to list a Member as an additional original co-sponsor as of the date of original introduction where his name had been omitted by the original sponsor (Jan. 28, 1985, p. 1141; May 23, 1985, p. 13421). Unanimous consent requests to delete Members' names as co-sponsors are not entertained after the last committee authorized to consider the bill has reported to the House (Oct. 8, 1985, p. 26668), and the Speaker has vacated unanimous consent orders of the House to delete co-sponsors when advised that the bill had already been reported (Aug. 5, 1987, p. ——). A Member may request unanimous consent that his name be deleted as a co-sponsor of an unreported bill during its consideration under suspension of the rules and prior to a final vote thereon (June 9, 1986, p. ——).

§ 855. Resolution of inquiry.

5. All resolutions of inquiry addressed to the heads of executive departments shall be reported to the House within fourteen legislative days after presentation.

The House has exercised the right, from its earliest days, to call on the President and heads of departments for information. The first rule on the subject was adopted in 1820 for the purpose of securing greater care and deliberation in the making of requests. The present form of rule, in its essential features, dates from 1879 (III, 1856), while the time period for a committee to report was extended from one week to fourteen legislative days in the 98th Congress (H. Res. 5, Jan. 3, 1983, p. 34).

§ 856. Forms of resolutions of inquiry and delivery thereof.

Resolutions of inquiry are usually simple rather than concurrent in form (III, 1875), and are never joint resolutions (III, 1860). A resolution authorizing a committee to request information has been treated as a resolution of inquiry (III, 1860). It has been considered proper to use the word "request" in asking for information from the President and "direct" in addressing the heads of departments (III, 1856, footnote, 1895). It is usual for the House in calling on the President for information, especially with relation to foreign affairs, to use the qualifying clause "if not incompatible with the public interest" (II, 1547; III, 1896–1901; V, 5759; VI, 436). But in some instances the House has made its inquiries of the President without condition, and has even made the inquiry imperative (III, 1896–1901). Resolutions of inquiry are delivered under direction of the Clerk (III, 1879) and are answered by subordinate officers of the Government either directly or through the President (III, 1908–1910).

§ 857. Privileged status of resolutions of inquiry.

The practice of the House gives to resolution of inquiry a privileged status. Thus, they are privileged for report and consideration at any time after their reference to a committee (III, 1870; VI, 413, 414), but not before (III, 1857), and are in order for consideration only on motion directed to be made by the committee reporting the same (VI, 413; VIII, 2310). They are privileged for consideration on "Suspension days" and take precedence of the Consent Calendar (VI, 409), but are not in order on Calendar Wednesday (VII, 896–898). And only resolutions addressed to the President and the heads of the executive departments have the privilege (III, 1861–1864; VI, 406). To enjoy the privilege a resolution should call for facts rather than opinions (III, 1872, 1873; VI, 413, 418–432; July 7, 1971, pp. 23810–11), should not require investigations (III, 1872–1874; VI, 422, 427, 429, 432), and should not present a preamble (III, 1877, 1878; VI, 422, 427); but if a resolution on its face calls for facts, the Chair will not investigate the probability of the existence of the facts called for (VI, 422). However, a resolution inquiring for such facts as would inevitably require the statement of an opinion to answer such inquiry is not privileged (Speaker Longworth, Feb. 11, 1926, p. 3805).

Questions of privilege (as distinguished from privileged questions) have sometimes arisen in cases wherein the head of a department has declined to respond to an inquiry and the House has desired to demand a further answer (III, 1891; VI, 435); but a demand for a more complete reply (III, 1892) or a proposition to investigate as to whether or not there has been a failure to respond may not be presented as involving the privileges of the House (III, 1893).

§ 858. Discharge of a committee from a resolution of inquiry.

Committees are required to report resolutions of inquiry back to the House within one week (now fourteen days) of the reference, and this time is construed to be legislative days (VIII, 3368; Speaker Rayburn, Feb. 9, 1950, p. 1755) exclusive of either the first or last day (III, 1858, 1859). If a committee refuses or neglects to report the resolution back, the House may reach the resolution only by a motion to discharge the committee (III, 1865). The ordinary motion to discharge a committee is not privileged (VII, 2316); but the practice of the House has given privilege to the motion in cases of resolutions of inquiry (III, 1866–1870). And this motion to discharge is privileged at the end of the time period, though the resolution may have been delayed in reaching the committee (III, 1871). The motion to discharge is not debatable (III, 1868; VI, 415). However, if the motion is agreed to, the resolution is debatable under the hour rule unless the previous question is ordered (VI, 416, 417). If a committee reports a privileged resolution of inquiry, it may then be called up only by an authorized member of the reporting committee and not by another Member of the House (VI, 413; VIII, 2310). The Member calling up a privileged resolution of inquiry reported from committee is recognized to control one hour of debate and may move to lay the resolution on the table during that time (July 7, 1971, pp. 23807–10; Oct. 20, 1971, pp. 37055–57).

§ 859. Resolutions of inquiry as related to the Executive.

The President having failed to respond to a resolution of inquiry, the House respectfully reminded him of the fact (III, 1890). In 1796 the House declared that its constitutional requests of the Executive for information need not be accompanied by a statement of purposes (II, 1509). As to the kind of information which may be required, especially as to the papers that may be demanded, there has been much discussion (III, 1700, 1738, 1888, 1902, 1903; VI, 402, 435). There have been several conflicts with the Executive (II, 1534, 1561; III, 1884, 1885–1889, 1894) over demands for papers and information, especially when the resolutions have called for papers relating to foreign affairs (II, 1509–1513, 1518, 1519).

§ 860. Introduction of bills, resolutions, or memorials by request.

6. When a bill, resolution, or memorial is introduced "by request", these words shall be entered upon the Journal and printed in the Record.

This rule was adopted in 1888 (IV, 3366).

It has never been the practice of the House to permit the names of the persons requesting the introduction of the bill to be printed in the Record.

RULE XXIII.

OF COMMITTEES OF THE WHOLE HOUSE.

§ 861a. Selection of Chairman of Committee of the Whole; and his power to preserve order.

1. (a) In all cases, in forming a Committee of the Whole House, the Speaker shall leave his chair after appointing a Chairman to preside, who shall, in case of disturbance or disorderly conduct in the galleries or lobby, have power to cause the same to be cleared.

This provision, adopted in 1880, was made from two older rules dating from 1789 and modified in 1794 to provide for the appointment of the Chairman instead of the inconvenient method of election by the committee (IV, 4704).

§ 861b. Functions of the Chairman of the Committee of the Whole.

The Sergeant-at-Arms attends the sittings of the Committee of the Whole and, under direction of the Chairman, maintains order (I, 257). In rare cases wherein the Chairman has been defied or insulted he has directed the committee to rise, left the chair and, on the chair being taken by the Speaker, has reported the facts to the House (II, 1350, 1651, 1653). While the Committee of the Whole does not control the Congressional Record, the Chairman may direct the exclusion of disorderly words spoken by a Member after he has been called to order (V, 6987), but may not determine the privileges of a Member under general "leave to print" (V, 6988). The Chairman decides questions of order arising in the committee independently of the Speaker (V, 6927, 6928), but has declined to consider a question arising in the House just before the committee began to sit (IV, 4725, 4726). He recognizes for debate (V, 5003); but like the Speaker is forbidden to recognize for requests to suspend the rule of admission to the floor (V, 7285). He may direct the committee to rise when the hour previously fixed for adjournment of the House arrives, or when the hour previously fixed by the House for consideration of other business arrives, in which case he reports in the regular way (IV, 4785; VIII, 2376; Aug. 22, 1974, p. 30077); but if the committee happens to be in session at the hour fixed for the meeting of the House on a new legislative day, it rests with the committee and not with the Chairman to determine whether or not the committee shall rise (V, 6736, 6737).

§ 862. Speaker's declaration into Committee of the Whole pursuant to special order.

(b) After the House has adopted a special order of business resolution reported by the Committee on Rules providing for the consideration of a measure in the Committee of the Whole House on the state of the Union, the Speaker may at any time within his discretion, when no question is pending before the House, declare the House resolved into the Committee of the Whole House on the state of the Union for the consideration of that measure without intervening motion, unless the resolution in question provides otherwise.

Paragraph (b) was added in the 98th Congress (H. Res. 5, Jan. 3, 1983, p. 34).

§ 863. Failure of a quorum in Committee of the Whole.

2. (a) A quorum of a Committee of the Whole shall consist of one hundred Members. The first time that a Committee of the Whole finds itself without a quorum during any day, the Chairman shall invoke the procedure for the call of the roll under clause 5 of Rule XV, unless, in his discretion, he orders a call of the Committee to be taken by the procedure set forth in clause 1 or clause 2(b) of Rule XV: *Provided,* That the Chairman may in his discretion refuse to entertain a point of order that a quorum is not present during general debate only. If on such

call, a quorum shall appear, the Committee shall continue its business; but if a quorum does not appear, the Committee shall rise and the Chairman shall report the names of the absentees to the House. After the roll has been once called to establish a quorum during such day, the Chairman may not entertain a point of order that a quorum is not present unless the Committee is operating under the five-minute rule and the Chairman has put the pending motion or proposition to a vote; and if the Chairman sustains a point of order that a quorum is not present after putting the question on such a motion or proposition, he may announce that following a regular quorum call conducted pursuant to the previous provisions of this clause, he will reduce to not less than five minutes the period of time within which a recorded vote on the pending question may be taken if such a vote is ordered. If, at any time during the conduct of any quorum call in a Committee of the Whole, the Chairman determines that a quorum is present, he may, in his discretion and subject to his prior announcement, declare that a quorum is constituted. Proceedings under the call shall then be considered as vacated, and the Committee shall not rise but shall continue its sitting and resume its business.

It was the early practice for the Committee of the Whole to rise on finding itself without a quorum (IV, 2977), and it was not until 1847 that a rule was adopted. The rule was amended in 1880, again in 1890 (which included the concept that a quorum in the Committee should be one hundred rather than a quorum of the House (IV, 2966)), and in 1971 (Jan. 22, 1971, p. 144). On October 13, 1972 (H. Res. 1123, p. 36012) the rule was amended to reflect the installation of the electronic voting system in the House Chamber, and on January 4, 1977 (H. Res. 5, 95th Cong., pp. 53–70) clause 2 was substantially changed to allow quorum calls only under the five-minute rule where the Chairman has put the question on a pending proposition, after a quorum of the Committee of the Whole has been once established on that day. The Chairman of the Committee of the Whole must entertain a point of order of no quorum during the five-minute rule if a quorum has not yet been established in the Committee on the bill then pending (and the fact that a quorum of the Committee has previously been established on another bill on that day is irrelevant during consideration (Sept. 19, 1984, p. ——). Where a recorded vote on a prior amendment or motion during the five-minute rule on that bill on that day has established a quorum, a subsequent point of no quorum during debate is precluded except by unanimous consent (May 10, 1984, p. ——; Dec. 17, 1985, p. 37469; June 25, 1986, p. ——).

The clause was amended again in the 96th Congress (H. Res. 5, Jan. 15, 1979, pp. 7–16) to permit the Committee to continue its business following the appearance of a quorum so that the Speaker need not take the chair to receive the Committee's report of absentees as in previous practice, and to enable the Chairman to reduce to five minutes the period for a recorded vote immediately following a regular quorum call. In the 97th Congress (H. Res. 5, Jan. 5, 1981, p. 98) the rule was amended to allow the Chairman the discretion whether or not to entertain a point of order of no quorum during general debate only.

The last two sentences of the clause, permitting the Chair to vacate proceedings under the call in his discretion when a quorum appears, were added on April 9, 1974 (H. Res. 988, pp. 10195–9). The Speaker interpreted the last two sentences of this clause to permit the Chairman of the Committee of the Whole to announce in advance, at the time that the absence of a quorum is ascertained, that he will vacate proceedings when a quorum appears, and to convert to a regular quorum call if a quorum does not appear at any time during the call. (May 13, 1974, pp. 14148–9).

The Chair need not convert to a regular quorum call precisely at the expiration of 15 minutes if 100 Members have not responded on a "notice" quorum call but may continue to exercise his discretion to vacate proceedings at any time during the entire period permitted for the conduct of the call by clause 5, Rule XV (July 17, 1974, p. 23673).

Under the modern practice, when a Committee of the Whole finds itself without a quorum, the Chairman normally directs that Members record their presence by electronic device. The Chair may however, in his discretion, order that Members respond by the alternative procedures in clause 1 of Rule XV (alphabetical call of the roll) or clause 2(b) of Rule XV (clerk tellers) (for the use of clerk tellers for a "notice" quorum call in Committee of the Whole, see July 13, 1983, p. ——).

Before the installation of the electronic system, a quorum in the Committee was established by a call of the roll. At one time the roll was called but once (IV, 2967); but in the later practice it was called twice as on other roll calls (VI, 668). Where the Committee has risen to report the absence of a quorum, it resumes its session by direction of the Speaker on the appearance of a quorum (IV, 2968; VI, 674). The quorum which must appear to permit the committee to continue its business is a quorum of the committee and not of the House (IV, 2970, 2971) but if such quorum fails to appear, a quorum of the House is required (VI, 674). It was formerly held that after the committee has risen and reported its roll call, a motion to adjourn is in order before direction as to resumption of the session (IV, 2969), but under the later practice the committee immediately resumed its session without intervening motion or unanimous consent requests (VI, 672, 673; VIII, 2377, 2379, 2436). The failure of a quorum of the House to answer on this roll call does not interfere with the authority of the Speaker to direct the committee to resume its session (IV, 2969). The Chairman's count of a quorum is not subject to verification by tellers (VIII, 2369, 2436), may not be challenged by an appeal (July 24, 1974, p. 25012), and he may count those present and not voting in determining whether a quorum is present (VI, 641). On a division vote totaling less than 100, the Chair has relied on his immediately prior count on a point of no quorum and on his observation of several Members present but not voting on the division vote in finding the presence of a quorum of the Committee of the Whole (June 29, 1988, p. ——). No quorum being present when a vote is taken in Committee of the Whole, and the committee having risen before a quorum appeared, such vote is invalid, and the question is put de novo when the committee resumes its business (VI, 676, 677). While an "automatic" rollcall (under Rule XV, clause 4) is not in order in Committee of the Whole, a point of order of no quorum may intervene between the announcement of a division vote result and prior to transaction of further business, and a demand for a recorded vote following the quorum call is not thereby precluded (Oct. 9, 1975, p. 32598). Where a recorded vote is refused but the Chair has not announced the result of a voice vote on an amendment, and the demand for a division or teller vote remains possible, the question remains pending and the Chair is obligated to entertain a point of order of no quorum under clause 2(a), Rule XXIII (June 6, 1979, p. 13648).

§864. Rising and reports of Committee of the Whole as related to quorum.

The presence of a quorum is not necessary for adoption of a motion that the Committee of the Whole rise (IV, 2975, 2976, 4914; clause 6(b), Rule XV; Mar. 5, 1980, pp. 4801-2; Oct. 3, 1985, p. 26096); but when the committee rises without a quorum, it may not report the bills it has acted on (IV, 2972, 2973), and such bills as have been laid aside to be reported remain in the committee until the next occasion, when the committee rises without question as to a quorum (IV, 4913).

Under Rule XV, clause 6, as added on April 9, 1974 (H. Res. 998, p. 10199), a point of order of no quorum may not be entertained, on a day on which a quorum has been established, during the period after the Committee of the Whole has risen after completing its consideration of a bill or resolution and before the Chairman of the Committee has reported the bill or resolution back to the House. The fact that the vote whereby the committee rises does not show a quorum (IV, 4914) or that a point of no quorum has been made without an ascertainment thereof (IV, 2974), does not prevent a report of the bills already acted on. The Chairman having announced the absence of a quorum in Committee of the Whole, a motion to rise is in order and if a quorum develops on the vote by which the motion is rejected the roll is not called and the committee proceeds with its business (VIII, 2369). The passage of a bill by the House is not invalidated by the fact that the Committee of the Whole reported it on an erroneous supposition that a record vote had disclosed a quorum (IV, 2972).

(b) In the Committee of the Whole, the Chair shall order a recorded vote on request supported by at least twenty-five Members.

This clause was adopted in the 96th Congress (H. Res. 5, Jan. 15, 1979, pp. 7-16).

§865. Subjects requiring consideration in Committee of the Whole.

3. All motions or propositions involving a tax or charge upon the people, all proceedings touching appropriations of money, or bills making appropriations of money, or property, or requiring such appropriation to be made, or authorizing payments out of appropriations already made, or releasing any liability to the United States for money or property, or referring any claim to the Court of Claims, shall be first considered in a Committee of the Whole, and a point of order under this rule shall be good at any time before the consideration of a bill has commenced.

The first form of this rule was adopted in 1794, and it has been perfected by amendments in 1874 and 1896 (IV, 4792).

§866. Construction of the rule, requiring consideration in Committee of the Whole.

To require consideration in Committee of the Whole, a bill must show on its face that it falls within the requirements of the rule (IV, 4811-4817; VIII, 2391), but where the expenditure is a mere matter of speculation (IV, 4818-4821; VIII, 2388), or where the bill might involve a charge, but does not necessarily do so (IV, 4809, 4810), the rule does not apply. In passing upon the question as to whether a proposition involves a charge upon the Treasury, the Speaker is confined to the provisions of the text and may not take into consideration personal knowledge not directly deducible therefrom (VIII, 2386, 2391). Resolutions reported by the Committee on House Administration appropriating from the contingent fund of the House are considered in the House (VIII, 2415, 2416). Authorizations of expenditures from the contingent fund, under the later ruling (IV, 4862-4867) do not fall within the specifications of the rule. (IV, 4868). A bill providing for an expenditure which is to be borne otherwise than by the Government (IV, 4831; VIII, 2400), or relating to money in the Treasury in trust (IV, 4835, 4836, 4853; VIII, 2413), is not governed by the rule. But where a bill sets in motion a train of circumstances destined ultimately to involve certain expenditures, it must be considered in Committee of the Whole (IV, 4827; VIII, 2399), as must also bills ultimately authorizing officials in certain contingencies to part with property belonging to the United States (VIII, 2399). The requirements of the rule apply to amendments as well as to bills (IV, 4793, 4794; VIII, 2331), and also to any portion of a bill requiring an appropriation, even though it be merely incidental to the bill's main purpose (IV, 4825). Under the later practice general (as well as private and special) bills providing for the adjudication and payment of claims are held to be within the requirements of the rule (IV, 4856-4859).

§867. Subjects not requiring consideration in Committee of the Whole.

The House may consider in Committee of the Whole subjects not specified in the rule (IV, 4822); for example, major amendments to the Rules of the House have been considered in Committee of the Whole pursuant to special orders (H. Res. 998, Committee Reform Amendments of 1974, considered in Committee of the Whole pursuant to H. Res. 1395, Sept. 30, 1974, p. 32953; H.R. 17654, Legislative Reorganization Act of 1970, considered in Committee of the Whole pursuant to H. Res. 1093, July 13, 1970, p. 23901). While conference reports were formerly considered in Committee of the Whole, they may not be sent there on the suggestion of the point of order that they contain matter ordinarily requiring consideration therein (V, 6559-6561). When a bill is made a special order (IV, 3216-3224), or when unanimous consent is given for its consideration (IV, 4823; VIII, 2393), the effect is to discharge the Committee of the Whole and bring the bill before the House itself for its consideration (IV, 3216; VII, 788), and in such event the bill is considered "in the House as in the Committee of the Whole" (VIII, 2393). When a bill once considered in Committee of the Whole is recommitted, it is not, when again reported, necessarily subject to the point of order that it must be considered in Committee of the Whole (IV, 4828, 4829; V, 5545, 5546, 5591).

§ 868. General practice as to consideration in Committee of the Whole.

Provisions placing liability jointly on the United States and the District of Columbia (IV, 4833), granting an easement on public lands or in streets belonging to the United States (IV, 4840–4842), dedicating public land to be forever used as a public park (IV, 4837, 4838), providing site for statue (VIII, 2405), confirming grants of public lands (IV, 4843) and creating new offices (IV, 4824, 4846), have been held to require consideration in Committee of the Whole. Indian lands have not been considered "property" of the Government within the meaning of the rule (IV, 4844, 4845; VIII, 2413). And while a bill removing the rate of postage has been held to be within the rule as "involving a tax or charge" (IV, 4861), taxes on bank circulation have not been so considered (IV, 4854, 4855).

§ 869. Order of business in Committee of the Whole.

4. In Committees of the Whole House business on their calendars may be taken up in regular order, or in such order as the committee may determine, unless the bill to be considered was determined by the House at the time of going into committee, but bills for raising revenue, general appropriation bills, and bills for the improvement of rivers and harbors shall have precedence.

This rule applies to the two committees of the whole which have been established by the practice of the House (IV, 4705), the Committee of the Whole House on the state of the Union, which considers public bills, and the Committee of the Whole House, which considers private business (IV, 3115). The early practice left the order of taking up bills to be determined entirely by the committee, but in 1844 the House began by rule to regulate the order, and in 1880 adopted the present rule (IV, 4729). The latter portion of the rule is rarely used, since the ordinary practice is to consider general appropriation bills under clause 9 of Rule XVI, which gives privilege to motions to go into committee to consider a designated bill of this class (IV, 3072).

The power of the committee to determine the order of considering bills on its calendar is construed to authorize a motion to establish an order (IV, 4730) or a motion to take up a specified bill out of its order (IV, 4731, 4732; VIII, 2333). Except in cases wherein the rules make specific provisions therefor a motion is not in order in the House to fix the order in which business on the calendars of the Committee of the Whole shall be taken up (IV, 4733). The Committee of the Whole having voted to consider a particular bill, and consideration having begun, a motion to reconsider or change that vote is not in order (IV, 4765). When there is unfinished business in Committee of the Whole, it is usually first in order (IV, 4735; VIII, 2334).

§ 870. General debate and amendment under the five-minute rule in Committee of the Whole.

5. (a) When general debate is closed by order of the House, any Member shall be allowed five minutes to explain any amendment he may offer, after which the Member who shall first obtain the floor shall be allowed to speak five minutes in opposition to it, and there shall be no further debate thereon, but the same privilege of debate shall be allowed in favor of and against any amendment that may be offered to an amendment; and neither an amendment nor an amendment to an amendment shall be withdrawn by the mover thereof unless by the unanimous consent of the committee. Upon the offering of any amendment by a Member, when the House is meeting in the Committee of the Whole, the Clerk shall promptly transmit to the majority committee table five copies of the amendment and five copies to the minority committee table. Further, the Clerk shall deliver at least one copy of the amendment to the majority cloak room and at least one copy to the minority cloak room.

A rule of 1789 provided that bills should be read and debated in Committee of the Whole and in the House by clauses. Although that rule has disappeared, the practice continues in Committee of the Whole, although not in the House Originally there was unlimited debate in Committee of the Whole both as to the bill generally and also as to any amendment; but in 1841 the rule that no Member should speak more than an hour was applied both to the Committee of the Whole and the House. At the same time another rule was adopted to prevent indefinite prolongation of debate in Committee of the Whole by permitting the House by majority vote to order the discharge of the Committee of the Whole from the consideration of a bill after acting, without debate, on pending amendments and any other amendments that might be offered. The effect of this was to empower the House to close general debate at any time after it had actually begun in the committee; and thereby to require amendments to be voted on without debate. In 1847 a rule provided that any Member proposing an amendment should have five minutes in which to explain it, and in 1850 an amendment to the rule permitted also five minutes in opposition and guarded against abuse by forbidding the withdrawal of an amendment when once offered (V, 5221). The last two sentences of this clause, placing upon the Clerk the responsibility for providing copies of amendments, was part of the Legislative Reorganization Act of 1970 (84 Stat. 1140, Sec. 124) and was added to the rule on January 22, 1971, p. 144 (H. Res. 5, 92d Cong.). The fact that copies of an amendment have not been made available as required in this clause is not grounds for a point of order against the amendment (June 21, 1974, p. 20609; Mar. 25, 1976, p. 7997).

§ 871. Motion to close general debate in Committee of the Whole.

The motion to close general debate in Committee of the Whole, successor in the practice to the motion to discharge provided by the rule of 1841, is made in the House pending the motion that the House resolve itself into committee, and not after the House has voted to go into committee (V, 5208); and though not debatable, the previous question is sometimes ordered on it to prevent amendment (V, 5203); and in case the previous question is ordered, the 40 minutes debate under clause 3 of Rule XXVII is not allowed (VIII, 2555, 2690). General debate must have already begun in Committee of the Whole before the motion to limit it is in order in the House (V, 5204-5206). The motion may not apply to a series of bills (V, 5209) and the motion in the House to limit debate on a bill in the Committee of the Whole must apply to the whole and not to a part of a bill (V, 5207). A proposition for a division of time may not be made as a part of it (V, 5210, 5211). The motion may not be made in Committee of the Whole (V, 5217; VIII, 2548); but in absence of an order by the House the Committee of the Whole may be unanimous consent determine as to general debate (V, 5232; VIII, 2553). Where the House has fixed the time the committee may not, even by unanimous consent, extend it (V, 5212-5216; VIII, 2321, 2550; Mar. 27, 1984, p. ——). The general debate must close before amendments may be offered (IV, 4744; V, 5221); and it is closed by the fact that no Member desires to participate further (IV, 4745). Where no member of a committee designated to control time is present at the appropriate time during general debate in Committee of the Whole, the Chair may presume the time to have been yielded back (June 11, 1984, p. ——). Motions for disposition of the bill are not in order before general debate is closed (IV, 4778); nor may a Member, in time yielded to him for general debate, move that the Committee rise (May 25, 1967, p. 14121) or yield to another for such motion (Feb. 22, 1950, p. 2178).

§ 872. Reading and amendment under the five-minute rule.

The reading of the bill for amendment is not specifically required by the present form of the rule; but is done under a practice which was originally instituted by the rule of 1789 and has continued, although the rule was eliminated, undoubtedly by inadvertence, in the codification of 1880 (V, 5221). Revenue, general appropriation, lighthouse, and river and harbor bills are generally read by paragraphs; other bills by sections (IV, 4738, 4740); and while the matter is very largely in the discretion of the Chair (VIII, 2341, 2344, 2346), the Committee of the Whole has overruled his decision (VIII, 2347). A bill (or the remainder of a bill) may be considered as having been read and open to amendment by unanimous consent but not by motion (June 18, 1976, p. 19296). A Senate amendment, however, is read in entirety, and not by either paragraphs or sections (V, 6194) and an amendment in the nature of a substitute offered from the floor must also be read in its entirety and is then open to amendment at any point, and a unanimous consent request in Committee of the Whole that it be read by sections for amendment is not in order (March 25, 1975, p. 8490). The Committee of the Whole may not, even by unanimous consent, prohibit the offering of an amendment otherwise in order under the five-minute rule (July 31, 1984, p. ——). When a paragraph or section has been passed it is not in order to return thereto (IV, 4742, 4743) except by unanimous consent (IV, 4746, 4747; Nov. 30, 1982, p. 28066) or when, the reading of the bill being concluded and a motion to rise being decided in the negative, the committee on motion votes to return (IV, 4748). Where a bill is considered as read and open to amendment at any point, adoption of an amendment adding a new section at the end of the bill does not preclude subsquent amendments to previous sections of the bill (Apr. 17, 1986. p. ——). But the chairman may direct a return to a section whereon, by error, no action was had on a pending amendment (IV, 4750). Points of order against a paragraph should be made before the next paragraph is read (V, 6931; VIII, 2351). The paragraph or section having been read, and an amendment offered, the right to explain or oppose that amendment has precedence of a motion to amend it (IV, 4751). In this debate recognitions are governed by the conditions of the pending question rather than by the general relations of majority and minority (V, 5223). The Member recognized may not yield time (V, 5035–5037; May 8, 1987, p. ——; Dec. 10, 1987, p. ——) and must confine himself to the subject (V, 5240–5256; VIII, 2591). A Member recognized under the five-minute rule may not yield to another Member to offer an amendment (Dec. 12, 14, 1973, pp. 41171, 41716; Sept. 8, 1976, p. 29243).

§ 873a. Pro forma amendments under the five-minute rule.

The pro forma amendment to "strike out the last word" has long been used for purposes of debate or explanation where an actual amendment is not contemplated (V, 5778; VIII, 2591); but a pro forma amendment must be voted on unless withdrawn (VIII, 2874). A Member who has occupied five minutes on a pro forma amendment may not lengthen this time by making another pro forma amendment (V, 5222; VIII, 2560), nor may he then extend this time by offering a substantive amendment while other Members are seeking recognition. (July 28, 1965, p. 18631). A Member recognized to offer a pro forma amendment under the five-minute rule may not during that time offer a substantive amendment but must be separately recognized for that purpose by the Chair (Nov. 19, 1987, p. ——). A Member may speak in opposition to a pending amendment and subsequently offer a pro forma amendment and debate that (June 30, 1955, p. 9614); and a Member who has debated a substantive amendment may thereafter rise in opposition to a pro forma amendment thereto (July 20, 1951, p. 8566). A Member who has offered a substantive amendment and then debated it for five minutes may not extend his time by offering a pro forma amendment, as it is not in order for the offeror of an amendment to amend his own amendment except by unanimous consent (Oct. 14, 1987, p. ——). A pro forma amendment may be offered after a substitute has been adopted and before the vote on the amendment, as amended, by unanimous consent only, since the amendment has been amended in its entirety and no further amendments, including pro forma amendments, are in order (Oct. 18, 1983, p. ——). A Member recognized on a pro forma amendment may not allocate or reserve time, though he may in yielding indicate to the Chair when he intends to reclaim his time (May 19, 1987, p. ——).

§ 873b. Motion to dispense with reading.

(b) It shall be in order to move in the Committee of the Whole to dispense with the reading of an amendment if the amendment has been printed in the bill as reported from a committee, or if any Member shall have caused the amendment to be printed in the Congressional Record, and to be submitted to the clerk, or to any responsible staff member designated by the Chairman, of the reporting committee or committees, at least one day prior to floor consideration, and said motion shall be decided without debate.

Paragraph (b) was added in the 97th Congress (H. Res. 5, Jan. 5, 1981, pp. 98–113) to permit a motion to dispense with the reading of certain amendments in the Committee of the Whole.

§ 874. Closing the five-minute debate in Committee of the Whole.

6. The committee may, by the vote of a majority of the Members present, at any time after the five minutes' debate has begun upon proposed amendments to any section or paragraph of a bill, close all debate upon such section or paragraph or, at its election, upon the pending amendments only (which motion shall be decided without debate); but this shall not preclude further amendment, to be decided without debate. However, if debate is closed on any section or paragraph under this clause before there has been debate on any amendment which any Member shall have caused to be printed in the Congressional Record after the reporting of the bill by the committee but at least one day prior to floor consideration of such amendment, the Member who caused such amendment to be printed in the Record shall be given five minutes in which to explain such amendment, after which the first person to obtain the floor shall be given five minutes in opposition to it, and there shall be no further debate thereon; but such time for debate shall not be allowed when the offering of such amendment is dilatory. Material placed in the Record pursuant to this provision shall indicate the full text of the proposed amendment, the name of the proponent Member, the number of the bill to which it will be offered and the point in the bill or amendment thereto where the amendment is

intended to be offered, and shall appear in a portion of the Record designated for that purpose.

This clause was adopted in 1860, with amendment in 1880 and 1885 (V, 5221, 5224). The second sentence of this clause, permitting ten minutes debate on an amendment which has been printed in the Record even though debate has been closed by the Committee of the Whole, was inserted on January 22, 1971, p. 144 (H. Res. 5, 92d Cong.), following the passage of the Legislative Reorganization Act of 1970 (84 Stat. 1140) which contained an identical provision in Sec. 119.

The final sentence of the clause, relating to the procedure for submitting and the printing of amendments under the clause, was added on November 25, 1974 (H. Res. 1387, 93d Congress, p. 37270). The Speaker announced that amendments to be printed in the Record pursuant to this clause must be deposited in a separate box at the Rostrum or with the Official Reporters of Debates within 15 minutes following adjournment, and must bear the Member's original signature (Nov. 25, 1974, p. 37270). Printing an amendment in the Record under this clause permits debate notwithstanding a limitation of debate only if the amendment has been properly offered, and does not permit the offering of an amendment not otherwise in order under the rules (Apr. 23, 1975, p. 11491); and the guaranteed five minutes may be claimed only if the offeror of the amendment is the Member who caused it to be printed under the rule (June 1, 1976, p. 16044). The guaranteed time applies to an amendment offered as a substitute for another amendment, rather than as a primary amendment, if offered in the precise form printed (June 26, 1979, p. 16682), but where such a substitute amendment has not been printed in the Record it may not be debated unless time is yielded within the original 10 minutes (Dec. 10, 1987, p. ——).

The motion to close debate is not in order until such debate has begun (V, 5225; VIII, 2567), which means after one speech of five minutes (V, 5226; VIII, 2573). Although any Member may move, or request unanimous consent, to limit debate under the five-minute rule, the manager of the bill has the prior right to recognition for such purpose (June 19, 1984, p. ——). The House, as well as the Committee of the Whole, may close the five-minute debate after it has begun (V, 5229, 5231), but rarely exercises this right. The motion to close debate, while not debatable (Apr. 23, 1975, p. 11534; June 5, 1975, p. 17187), may be amended (V, 5227; VIII, 2578). The closing of debate on the last section of a bill does not preclude debate on a substitute for the whole text (V, 5228). Where there is a time limitation on debate on a pending amendment in the nature of a substitute and all amendments thereto, but not on the underlying original text, debate on perfecting amendments to the original text proceeds under the five-minute rule absent another time limitation (Apr. 13, 1983, p. ——). The motion may be ruled out when dilatory (V, 5734). Where five-minute debate has been limited to a certain number of minutes of debate without reference to a time certain, the time consumed by reading of amendments, quorum calls, points of order and votes is not taken from that remaining for debate (Oct. 3, 1969, pp. 28459–60; Nov. 9, 1971, pp. 40060–61); but where debate has been limited to a time certain, such time comes out of the time remaining under the limitation and reduces the time which may be allocated to Members wishing to speak (May 6, 1970, p. 14452; Oct. 7, 1976, pp. 26305–6). Where debate under the five-minute rule has been limited and equally divided, a Member allocated time may reserve a portion of his time or yield his time to another Member only by unanimous consent (Mar. 2, 1976, p. 4992; May 11, 1976, p. 13416; June 14, 1977, p. 18833). A motion to limit debate on a pending amendment may neither allocate the time proposed to remain nor vary the order of recognition to close debate, though the Committee of the Whole may separately do either by unanimous consent (July 12, 1988, p. ——). Under a limitation on debate the Chair may, in his discretion, either permit continued debate under the five-minute rule, or divide the remaining time among all those desiring to speak, or divide the remaining time between a proponent and an opponent to be yielded by them to other Members (May 25, 1982, p. 11672). Except as indicated in sec. 762, *supra*, the manager of the bill, and not the proponent of the pending amendment, has the right to close debate on an amendment on which debate has been limited and allocated under the five-minute rule (July 16, 1981, p. 16043), even where he is also the proponent of a pending amendment to the amendment subject to the limitation (Mar. 16, 1983, p. 5792). The Chair may also in his discretion give priority of recognition under a limitation to those Members seeking to offer amendments, over other Members standing at the time the limitation was agreed to (May 26, 1977, pp. 16950–2). Where the Committee of the Whole has limited debate time on a bill and all amendments thereto to a time certain several hours away, the Chair may in his discretion continue to proceed under the five-minute rule until he desires to allocate remaining time on possible amendments, and may then divide that time among proponents of anticipated amendments, and committee members opposing those amendments (July 16, 1981, p. 16044). The Committee of the Whole may, by motion, limit debate on a pending committee amendment in the nature of a substitute (considered as having been read as original text) and on all amendments thereto to a time certain, and may then, by subsequent unanimous-consent requests or motions, separately limit debate on each perfecting amendment after it has been offered (Mar. 16, 1983, p. 5794). A time limitation imposed by the Committee of the Whole under this clause may be rescinded or modified only by unanimous consent (Sept. 17, 1975, p. 28904). While ordinarily the expiration of time for debate on a bill and all amendments thereto precludes debate on amendments offered thereafter (July 18, 1968, p. 22110), debate on an amendment printed in the Record may nevertheless proceed for 10 minutes under this clause (Aug. 2, 1973, p. 27715). While the Committee of the

Whole may limit debate on amendments, it may not restrict the offering of amendments in contravention of a special order adopted by the House (June 25, 1985, p. 17201).

§ 875. The motion to strike out the enacting words of a bill.

7. A motion to strike out the enacting words of a bill shall have precedence of a motion to amend, and, if carried, shall be considered equivalent to its rejection. Whenever a bill is reported from a Committee of the Whole with an adverse recommendation and such recommendation is disagreed to by the House, the bill shall stand recommitted to the said committee without further action by the House, but before the question of concurrence is submitted it is in order to entertain a motion to refer the bill to any committee, with or without instructions, and when the same is again reported to the House it shall be referred to the Committee of the Whole without debate.

The practice of rejecting a bill by striking out the enacting words dates from a time as early as 1812, but the first rule on the subject was not adopted until 1822. By amendments in 1860, 1870, and 1880 the rule has been brought into its present form (V, 5326). The rule before 1880 applied in the House as well as in Committee of the Whole. In the revision of 1880 for the first time it was classified among the rules relating to the Committee of the Whole, but there is nothing to indicate that this change was intended to limit the scope of the motion. It was probably a recognition merely of the fact that the motion was used most frequently in Committee of the Whole (V, 5326, 5332). The motion must be in writing and in the proper form (July 24, 1986, p. ——; Aug. 15, 1986, p. ——; Sept. 12, 1986, p. ——).

§ 876a. Practice as to use of the motion to strike out the enacting clause.

The motion may not be made until the first section of the bill has been read (V, 5327; VIII, 2619). Having precedence of a motion to amend, it may be offered while an amendment is pending (V, 5328–5331; VIII, 2622, 2624, 2627). The motion takes precedence over the motion to amend and therefore over the motion to rise and report at the end of the reading of a general appropriation bill for amendment under clause 2(d), Rule XXI (July 24, 1986, p. ——). Where a special order provides that a bill shall be open to amendment in Committee of the Whole, a motion to strike out the enacting words is in order (VII, 787); Contra (IV, 3215), but after the stage of amendment has been passed the motion to strike out the enacting words is not in order (IV, 4782; VIII, 2368). Where a bill is being considered under a special order which permits only committee amendments and no amendments thereto, a motion that the committee rise and report with the recommendation that the enacting clause be stricken is not in order where no committee amendments are in fact offered (Apr. 16, 1970, p. 12092). The motion is debatable as to the merits of the bill, but may not go beyond its provisions (V, 5336). The debate on the motion is, in Committee of the Whole, governed by the five-minute rule (V, 5333-5335; VIII, 2618, 2628-2631), and only two five-minute speeches are in order (V, 5335; VIII, 2629), and where a Member recognized for five minutes in opposition to the motion yields back his time another Member may not claim the unused portion thereof (Mar. 3, 1988, p. ——). Members of the committee managing the bill have priority in recognition for debate in opposition to the motion (May 5, 1988, p. ——). The motion is not debatable after the expiration of time for debate on the pending bill and all amendments thereto (July 9, 1965, p. 16280; July 19, 1973, p. 24961; June 19, 1975, p. 19785), but it is debatable where the limitation is only on an amendment in the nature of a substitute being read as an original bill for the purpose of amendment under a special order (June 20, 1975, p. 19966). For more concerning debate on the motion, see Deschler's Precedents, ch. 19, § 12. A second motion on the same legislative day to strike out the enacting clause is not entertained in the absence of any material modification of the bill (VIII, 2636), but the motion may be repeated on a subsequent legislative day without change in the bill (May 6, 1950, p. 6571). The rejection of a proposed amendment to the bill does not qualify as a modification of the bill (June 21, 1962, p. 11369), nor does the adoption of an amendment to a proposed amendment to the bill. But where a committee amendment in the nature of a substitute is being read for amendment as an original bill, pursuant to a special order, the adoption of amendments to the amendment in the nature of a substitute allows the re-offering of the motion (June 20, 1975, p. 19970). A point of order against the motion should be made before debate thereon has begun (V, 6902; VIII, 3442; May 6, 1950, p. 6571), and when challenged the Member offering the motion must qualify as being opposed to the bill (Mar. 13, 1942, p. 2439; May 6, 1950, p. 6571; June 14, 1979, p. 14995). When a bill is reported from the Committee of the Whole with the recommendation that the enacting words be stricken out, the motion to strike out is debatable (V, 5337-5340), but a motion to lay on the table is not in order (V, 5337). The previous question may be moved on the motion to concur without applying to further action on the bill (V, 5342). When the House disagrees to the action of the committee in striking out the enacting words and does not refer it under the provisions of the rule, it goes back to the Committee of the Whole, where it becomes unfinished business (V, 5326, 5345, 5346; VIII, 2633). When the enacting words of a bill are stricken out the bill is rejected (V, 5326); and when the enacting clause of a Senate measure is stricken, the bill is rejected (V, 5326), and the Senate is so informed (IV, 3423; VIII, 2638; June 20, 1946, p. 7211; Oct. 4, 1972, p. 33787).

When, on Calendar Wednesday, the House disagrees to the recommendation of the Committee of the Whole that the enacting words be stricken out, the House automatically resolves itself into Committee of the Whole for its further consideration (VII, 943). When the bill is thus again taken up in Committee of the Whole it is taken up as unfinished business and is open to amendment, and the motion to strike out the enacting words may be again offered in the committee (VIII, 2633).

§ 876b. Reading concurrent resolution on budget for amendment.

8. At the conclusion of general debate in a Committee of the Whole on any concurrent resolution on the budget pursuant to section 305(a) of the Congressional Budget Act of 1974, the concurrent resolution shall be considered as having been read for amendment. It shall not be in order in the House or in a Committee of the Whole to consider an amendment to a concurrent resolution on the budget, or any amendment to an amendment thereto, unless the concurrent resolution as amended by such amendment or amendments (a) would be mathematically consistent (except to the extent that the amendment involved is limited by the third sentence of this clause); and (b) would contain all the matter set forth in subparagraphs (1) through (5) of section 301(a) of the Congressional Budget Act of 1974. It shall not be in order in the House or in a Committee of the Whole to consider an amendment to a concurrent resolution on the budget, or any amendment to an amendment thereto, which changes the amount

of the appropriate level of the public debt set forth in the concurrent resolution as reported; except that the amendments to achieve mathematical consistency which are permitted under section 305(a)(6) of the Congressional Budget Act of 1974 may include an amendment, offered by or at the direction of the Committee on the Budget, to adjust the amount of such level to reflect any changes made in the other figures contained in the resolution.

The first sentence of this clause was added to the rules on January 4, 1977 (H. Res. 5, 95th Cong., pp. 53-70). The second sentence was adopted in the 96th Congress (H. Res. 5, Jan. 15, 1979, pp. 7-16). In the 96th Congress the second sentence was amended further and the third sentence added by Public Law 96-78 (approved Sept. 29, 1979, 93 Stat. 589) and was originally intended to apply to concurrent resolutions on the budget for fiscal years beginning on or after October 1, 1980 (fiscal 1980). However, upon the adoption of H. Res. 642 (96th Congress, April 23, 1980, pp. 8789-90), the provisions of that public law amending the Rules of the House were made applicable to the third concurrent resolution on the budget for Fiscal Year 1980 as well as the first concurrent resolution on the budget for Fiscal 1981.

§ 877. Application of rules of the House to the Committee of the Whole.

9. The rules of proceeding in the House shall be observed in Committees of the Whole House so far as they may be applicable.

This clause was adopted in 1789 (IV, 4737).

§ 877a. Modification of special orders.

Unanimous consent requests may not be entertained in the Committee of the Whole by the Chair if their effect is to materially modify procedures required by a special rule or order adopted by the House. For example, the Chair has refused to entertain unanimous consent requests: (1) to permit a perfecting amendment to be offered to the underlying bill where a special rule permitted its consideration only as a perfecting amendment to a committee amendment (Aug. 2, 1977, p. 26161); (2) to permit a substitute to be read by sections for amendment where the special rule did not so provide (Dec. 12, 1973, p. 41153); (3) to extend the time limitation for consideration of amendments beyond that set by a special order requiring the Chair to put the question on the pending amendments at the expiration of certain hours of consideration (Apr. 10, 1986, p. ——); (4) to modify the terms of a special order permitting consideration of certain amendments only en bloc, in order to permit separate consideration of one of the amendments (Sept. 11, 1986, p. ——); (5) to change the control of general debate specified by the House (Oct. 9, 1986, p. ——); (6) to reduce below 15 minutes the minimum time for recorded votes in the Committee of the Whole (June 18, 1987, p. ——); (7) to alter the terms of a special rule providing that an amendment not be subject to amendment, by permitting a perfecting amendment thereto or a subsequent amendment changing an amendment already adopted (Nov. 18, 1987, p. ——); (8) to permit consideration of an amendment out of the order specified in a special rule (May 25, 1988, p. ——), (9) to vary the terms of a "modified closed" rule to permit consideration of an additional amendment (July 28, 1988, p. ——). By unanimous consent the House has altered the terms of a special order, for example, to make an additional amendment in order in the Committee of the Whole under a "modified closed" rule and to authorize a supplemental report from the Committee on Rules in lieu of the original report referred to in the special order (Speaker Wright, Aug. 11, 1988, p. ——). Unanimous-consent requests have been entertained in Committee of the Whole to permit the modification of a designated amendment made in order by a special rule, once offered (Sept. 1, 1976, p. 28877), and to permit a page reference to be included in a designated amendment made in order as printed where the printed amendment did not include that reference (Apr. 1, 1976, p. 9091). Because the House, and not the Committee of the Whole, has the authority to change the substantive terms of a special order, the House may, by unanimous consent, delegate to the Committee of the Whole authority to entertain unanimous-consent requests to change procedures contained in adopted special orders (Aug. 11, 1986, p.——).

RULE XXIV.

ORDER OF BUSINESS.

1. The daily order of business shall be as follows:

§ 878. The rule for the order of business in the House.

First. Prayer by the Chaplain.

Second. Reading and approval of the Journal, unless postponed pursuant to the provisions of clause 5(b)(1) of Rule I.

Third. Correction of reference of public bills.

Fourth. Disposal of business on the Speaker's table.

Fifth. Unfinished business.

Sixth. The morning hour for the consideration of bills called up by committees.

Seventh. Motions to go into Committee of the Whole House on the state of the Union.

Eighth. Orders of the day.

Originally the House had no rule prescribing an order of business, but certain simple usages were gradually established by practice before the first rule on the subject was adopted in 1811. The rule was amended frequently in an endeavor so to arrange the business as to give the House as large a freedom as possible in selecting for consideration and completing the consideration of the bills which it deems of the most importance. The present form was finally perfected in 1890 (IV, 3056), with a conforming change, relating to the postponement of the vote on approval of the Journal, added to the second order of business in the 98th Congress (H. Res. 5, Jan. 3, 1983, p. 34). The Speaker does not entertain a point of no quorum before prayer is offered (VI, 663), and under Rule XV, clause 6, as added on April 9, 1974 (H. Res. 998) and as amended on Jan. 4, 1977 (H. Res. 5, pp. 53-70), a point of no quorum may not be entertained before or during the offering of prayer or unless a question is pending.

§ 879. Privileged interruptions of the order of business in the House.

This rule does not, however, bind the House to a daily routine, since the system of making certain important subjects privileged (*see* Rules XI, clause 4(a); XVI, clause 9; XXVIII) permits the interruption of the order of business by matters which, in fact, often supplant it entirely for days at a time. But on any day, when the order of business is interrupted by a privileged matter, the business in order goes on from the place of interruption (IV, 3070, 3071) unless the House adjourn. After an adjournment the House begins again at the beginning. While privileged matters may interrupt the order of business, they may do so only with the consent of a majority of the House, expressed as to appropriation bills by the vote on going into Committee of the Whole to consider such bills, and as to matters like conference reports, questions of privilege, etc., by raising and voting on the question of consideration. The only exceptions to the principle that a majority may prevent interruption is contained in Rule XXIV, clause 6, 7, providing for a call of the private calendar on the first Tuesday of each month and a call of committees on Wednesdays. By this combination of an order of business with privileged interruptions the House is enabled to give precedence to its most important business without at the same time losing the power by majority vote to go to any other bills on its calendars.

The privileged matters which may interrupt the order of business are as follows:

§ 880. The privileged matters which may interrupt the order of business.

(1) General appropriation bills (Rule XVI, clause 9; IV, 3072).

(2) Conference reports (Rule XXVIII, clause 1(a); V, 6443) and motions to discharge or instruct conferees (Rule XXVIII, clause 1(b)).

(3) Special orders reported by the Committee on Rules for consideration by the House (Rule XI, clause 4(b); IV, 3070–3076, 4621).

(4) Consideration of amendments between the Houses after disagreement (IV, 3149, 3150).

(5) Questions of privilege (Rule IX; III, 2521).

(6) Privileged bills reported under the right to report at any time (Rule XI, clause 4(a); IV, 3142–3144, 4621; Rule XXII, clause 5).

(7) Call of committees on Wednesdays for bills on House and Union Calendars (Rule XXIV, clause 7).

(8) Private business on Tuesday (Rule XXIV, clause 6).

(9) Motions on the second and fourth Mondays of the month to discharge committees on public bills and resolutions (Rule XXVII, clause 4), and consideration of District of Columbia business (Rule XXIV, clause 8; IV, 3304).

(10) Consideration of bills on the Consent Calendar (Rule XIII, clause 4), and motions to suspend the rules and pass bills out of the regular order (Rule XXVII, clause 1; V, 6790).

(11) Bills coming over from a previous day with the previous question ordered (V, 5510–5517).

(12) Bills returned with the objections of the President (IV, 3534–3536).

(13) Motions to send a bill to conference (under Rule XX, clause 1; Aug. 1, 1972, p. 26153).

In addition to these matters, the House by practice permits its order of business to be interrupted, at the discretion of the Speaker, for the reception of messages (V, 6602). Addressing the House out of order by unanimous consent, the Speaker announced that on at least two subsequent days he would recognize designated Members after approval of the Journal to lead the House in the pledge of allegiance to the flag (Speaker Wright, Sept. 9, 1988, p. ——). Requests of Members for leaves of absence are in practice put before the House at the time of adjournment (IV, 3151).

§ 881. The interruption of the order of business by the request for unanimous consent.

When the House has no rule establishing an order of business, as at the beginning of a session before the adoption of rules, it is in order for any Member who is recognized by the Chair to offer a proposition relating to the order of business without asking consent of the House (IV, 3060). But after the adoption of the rule for the order of business, interruptions are confined to matters privileged to interrupt or to cases wherein the House gives unanimous consent for an interruption. A request for unanimous consent to consider a bill is in effect a request to suspend the order of business temporarily (IV, 3059). Therefore any Member, and the Speaker is, of course, included, may object, or demand the "regular order" (IV, 3058). The Speaker, however, usually signifies his objection by declining to put the request of the Member, thus saving the time of the House. The Speaker's guidelines for recognition for unanimous-consent requests for consideration of unreported measures are issued pursuant to clause 2, Rule XIV and are discussed in sec. 757, *supra.* The request for unanimous consent began to be used about 1832 when the House first felt a pressure of business and the necessity of adhering to a fixed order (IV, 3155–3159). In 1909, by the adoption of clause 4 of Rule XIII, a Consent Calendar was established. See Procedure (Ch. 23, § 2), and § 757, *supra,* for discussion of unanimous-consent requests and reservations of objections. Unanimous consent for the immediate consideration of a measure in the House does not preclude a demand for a record vote when the Chair puts the question on final passage, since it merely permits consideration of a matter not otherwise privileged (Dec. 16, 1987, p. ——).

§ 882. Disposal of business on the Speaker's table.

2. Business on the Speaker's table shall be disposed of as follows:

Messages from the President shall be referred to the appropriate committees without debate. Reports and communications from heads of departments, and other communications addressed to the House, and bills, resolutions, and messages from the Senate may be referred to the appropriate committees in the same manner and with the same right of correction as public bills presented by Members; but House bills with Senate amendments which do not require consideration in a Committee of the Whole may be at once disposed of as the House may determine,

as may also Senate bills substantially the same as House bills already favorably reported by a committee of the House, and not required to be considered in Committee of the Whole, be disposed of in the same manner on motion directed to be made by such committee.

A rule to govern disposition of business on the Speaker's table (to be distinguished from the table of the House, which is the Clerk's table) was adopted in 1832. In 1880 and 1885 efforts were made to so modify the rule as to prevent delays in business on the Speaker's table, but it was not until 1890 that the present rule was adopted (IV, 3089).

§ 883. Matters on Speaker's table for action by the House or by the Speaker alone.

Such portions of messages from the Senate as require action by the House, all messages from the President except those transmitting his objections to bills (IV, 3534–3536), and all communications and reports from the heads of departments go to the Speaker's table when received, to be disposed of under this rule. Simple resolutions of the Senate that do not require any action by the House are not referred (VII, 1048). All of the President's messages and such portions of Senate messages as, being House bills with Senate amendments, do not require consideration in Committee of the Whole are laid before the House for action; but communications other than messages from the President, all portions of Senate messages requiring consideration in Committee of the Whole (IV, 3101), and Senate bills of all kinds (with the exception noted in the rule) are referred to the appropriate standing committees under direction of the Speaker without action by the House (IV, 3107, 3111; VI, 727). A House bill returned with Senate amendments involving a new matter of appropriation, whether with or without a request for a conference, may be referred directly to a standing committee (VI, 731), and on being reported therefrom is referred directly to the Committee of the Whole (IV, 3094, 3095, 3108–3110). The usual practice, however, is to take from the Speaker's table and send to conference by unanimous consent (VI, 732). The Speaker's authority under this clause includes the discretionary authority to refer from the Speaker's table Senate amendments to House passed bills, to standing committees, under any conditions permitted under clause 5 of Rule X for referral of introduced bills; he may for example impose a time limitation for consideration only of a portion of the Senate amendment, not germane to the original House bill, by the standing committee with subject-matter jurisdiction, without referring the remainder of the Senate amendment to the House committee with jurisdiction over the original House bill (Speaker O'Neill, H.R. 31, Mar. 26, 1981, p. 5397). The Speaker announced his policy regarding referral of nongermane Senate amendments to committee (Jan. 3, 1983, p. 54; Jan. 6, 1987, p. ——); and his policy regarding recognition for unanimous-consent requests to dispose of Senate amendments at the Speaker's table (Apr. 26, 1984, p. ——; Feb. 4, 1987, p. ——) discussed in sec. 757, *supra*. A Senate bill to come before the House directly from the table must conform to the conditions prescribed by the rule (IV, 3098, 3099; VI, 727, 734, 737), and must have come to the House after and not before the House bill "substantially the same" has been placed on the House Calendar (IV, 3096; VI, 727, 736, 738). In the event the House bill has passed before the Senate bill is received, the Senate bill may nevertheless be disposed of on motion directed by the committee (VI, 734, 735). The House bill must be correctly on the House Calendar (VI, 736). In determining whether the House bill is substantially the same as the Senate bill, amendments recommended by the House committee must be considered (VI, 734, 736). The rule applies to private as well as to public Senate bills (IV, 3101), and to concurrent resolutions as well as to bills (IV, 3097). Although a committee must authorize the calling up of the Senate bill (VI, 739), the actual motion need not be made by one of the committee (IV, 3100). The authority of a committee to call up a bill must be given at a formal meeting of the committee (VIII, 2211, 2212, 2222).

§ 884. Reference of President's messages from the Speaker's table.

A message of the President on the Speaker's table is regularly laid before the House only at the time prescribed by the order of business (V, 6635–6638). While it is always read in full and entered on the Journal and the Congressional Record (V, 6963), the accompanying documents are not read on demand of a Member or entered in the Journal or Record (V, 5267–5271; VII, 1108). The annual message of the President is usually referred to the Committee of the Whole House on the State of the Union by the House on motion (V, 6631). In the earlier practice it was distributed to appropriate standing committees by resolutions reported from the Committee on Ways and Means (V, 6621, 6622) but since the first session of the Sixty-fourth Congress the practice has been discontinued (VIII, 3350). A portion of the annual message has been referred directly to a select committee (V, 6628). A message other than an annual message is usually referred directly to a standing committee by direction of the Speaker (IV, 4053; VIII; 3346), but may be referred by the House itself on motion by a Member (V, 6631; VIII, 3348), and such motion is privileged (VIII, 3348). This reference may be to a select as well as to a standing committee (V, 6633, 6634).

§ 885. Unfinished business.

3. The consideration of the unfinished business in which the House may be engaged at an adjournment, except

business in the morning hour, shall be resumed as soon as the business on the Speaker's table is finished, and at the same time each day thereafter until disposed of, and the consideration of all other unfinished business shall be resumed whenever the class of business to which it belongs shall be in order under the rules.

The first rule relating to unfinished business was adopted in 1794. Changes were made in 1860 and 1880, but the rule finally became unsatisfactory, because of delays caused by it, and in 1890 the present form was adopted (IV, 3112).

§ 886. Construction of rule as to unfinished business.

The "business in which the House may be engaged at an adjournment" means, literally, business in the House, as distinguished from the Committee of the Whole; and it further means business in which the House is engaged in its general legislative time, as distinguished from the special periods set aside for classes of business, like the morning hour for calls of committee, Tuesdays for private bills, etc. In general, all business unfinished in the general legislative time goes over as unfinished business under the rule, but there are a few exceptions. Thus, a motion relating to the order of business does not recur as unfinished business on a succeeding day, even though the yeas and nays may have been ordered on it (IV, 3114). The question of consideration, also, when not disposed of at an adjournment, does not recur as unfinished business on a succeeding day (V, 4947, 4948), but may be again raised on a subsequent day when the matter is again called up as unfinished business (VIII, 2438).

§ 887. Effect of previous question.

When the House adjourns before voting on a proposition on which the previous question has been ordered, either directly or by the terms of a special order (IV, 3185), the question comes up the next day immediately after the reading of the Journal, regardless of the requirements of the rule for the order of business (V, 5510–5517; VIII, 2691). If several bills come over in this situation, they have precedence in the order in which the several motions for the previous question were made (V, 5518). When the previous question is ordered on a bill undisposed of at adjournment on Friday, the bill comes up for disposition on the next legislative day (VIII, 2694). A bill going over from Calendar Wednesday with the previous question ordered on it should be disposed of on the next legislative day (VII, 967), but when the previous question is ordered on a bill undisposed of when the House adjourns Tuesday, the bill goes over until Thursday (VII, 890–894; VIII, 2674, 2691). A bill coming over from a preceding day with the previous question ordered is of equal privilege with business on the Consent Calendar (VII, 990).

§ 888. Business unfinished in periods set apart for classes of business.

The rule excepts by its terms certain classes of business which are considered in periods set apart for classes of business, viz:

(*a*) Bills considered in the morning hour and on Calendar Wednesday for the call of committees.

(*b*) Bills in Committee of the Whole.

(*c*) Private bills considered on Tuesdays.

(*d*) District of Columbia bills.

(*e*) Bills brought up under the rule setting apart days for motions to suspend the rules, the Consent Calendar, motions to discharge committees, and bills under consideration after a committee has been discharged.

A bill brought up in the morning hour and undisposed of when the call ceases for the day remains as unfinished business in the morning hour (IV, 3113, 3120), i.e., it is considered when the House next goes to a call of committees. Business unfinished when the Committee of the Whole rises remains unfinished, to be considered first in order when the House next goes into Committee of the Whole to consider that business (IV, 4735, 4736). Private bills unfinished on a Tuesday go over to the next Tuesday, and must be considered before the motion to go into Committee of the Whole House to consider other private bills. But when public business is considered on a Tuesday the unfinished business goes over until the next legislative day.

On District of Columbia day business unfinished on the preceding District day is in order for consideration, but does not come before the House unless called up (IV, 3307; VII, 879). Unless postponed under Rule XXVII, a motion to suspend the rules on which a second has been ordered, and which is undisposed of on one suspension day, goes over as unfinished business to the next suspension day, individual motions going over to a committee day, and vice versa (V, 6814–6816; VII, 1005; VIII, 3411, 3412). Where the second has not been ordered, there is doubt as to whether or not the motion goes over as unfinished business (V, 6817, 6818).

§ 889. The morning hour for the call of committees.

4. After the unfinished business has been disposed of, the Speaker shall call each standing committee in regular order, and then select committees, and each committee when named may call up for consideration any bill reported by it on a previous day and on the House Calendar, and if

the Speaker shall not complete the call of the Committees before the House passes to other business, he shall resume the next call where he left off, giving preference to the last bill under consideration: *Provided,* That whenever any committee shall have occupied the morning hour on two days, it shall not be in order to call up any other bill until the other committees have been called in their turn.

The "morning hour" is one of the oldest devices of the rules for devoting an early portion of the session to a specific class of business. Until 1885 it was the hour for the reception of reports from committees. In 1890 it was provided that reports should be filed with the clerk, and the morning hour was by this rule devoted to a call of committees for the consideration of House Calendar bills (IV, 3181). Since the adoption of the Calendar Wednesday rule (clause 7, Rule XXIV), the "morning hour" has been used but a very few times.

§ 890. Procedure in the morning hour.

Originally the morning hour was a fixed period of sixty minutes (IV, 3118); but under the present rules (Rule XXIV, clause 4) it does not terminate until the call is exhausted or until the House adjourns (IV, 3119), unless the House on motion made at the end of sixty minutes votes to go into Committee of the Whole House on the state of the Union (Rule XXIV, clause 5; IV, 3134), or unless other privileged matter intervenes (IV, 3131, 3132). Before the expiration of the sixty minutes the Speaker has declined to permit the call to be interrupted by a privileged report (IV, 3132) or by unanimous consent (IV, 3130). Where the business for which the call is interrupted is concluded, the call is resumed unless there be other interrupting business or the House adjourns (IV, 3133). A bill once brought up on the call continues before the House in that order of business until disposed of (IV, 3120), unless withdrawn by authority of the committee before action which puts it in possession of the House (IV, 3129); and may not be made a special order for a future day by a motion to postpone to a day certain (IV, 3164). In order to be called up in this order a bill must actually be on the House Calendar, and properly there, in order to be considered (IV, 3122–3126), and a bill on the Union Calendar may not be brought up on call of committees under this clause (VI, 753). In case the authority of the committee to call up a bill is disputed the Speaker does not consider it his duty to decide the question (IV, 3127), but has made decision on statements from the chairman and other members of the committee (IV, 3128).

§ 891. Interruption of the call of committees by motion to go into Committee of the Whole House on the state of the Union.

5. After one hour shall have been devoted to the consideration of bills called up by committees, it shall be in order, pending consideration or discussion thereof, to entertain a motion to go into Committee of the Whole House on the state of the Union, or, when authorized by a committee, to go into the Committee of the Whole House on the state of the Union to consider a particular bill, to which motion one amendment only, designating another bill, may be made; and if either motion be determined in the negative, it shall not be in order to make either motion again until the disposal of the matter under consideration or discussion.

This portion of the rule was adopted in 1890 as part of the plan for enabling the House at will to go at any time to any public bill on its calendars (IV, 3134).

§ 892. Conditions of the motion to go into Committee of the Whole at the end of one hour.

The words of the rule "one hour after" have been interpreted to mean a less time in case the call of committees shall have exhausted itself before the expiration of one hour (IV, 3135); but not otherwise (IV, 3141). After the House has been in Committee of the Whole under this order and has risen and reported, and the report has been acted on by the House, other motions to go into committee to consider other bills are in order (IV, 3136). The motion to go into committee generally may be made by the individual Member (IV, 3138), but when it is proposed to designate a particular bill he must have the authority of a committee (IV, 3138). The amendment to the motion to consider a particular bill must refer to a bill on the Union Calendar (IV, 3139). This order of business is not used in the House for consideration of bills in Committee of the Whole House on the state of the Union like general appropriation bills and revenue bills if otherwise privileged, which have a priority for consideration under clause 9, Rule XVI and bills reported under the leave to report to the House at any time pursuant to clause 4(a), Rule XI, but is used entirely for non-privileged bills.

§ 893. Interruption of the regular order on Tuesdays for consideration of the Private Calendar.

6. On the first Tuesday of each month after disposal of such business on the Speaker's table as requires reference only, the Speaker shall direct the Clerk to call the bills and resolutions on the Private Calendar. Should objection be made by two or more Members to the consideration of any bill or resolution so called, it shall be recommitted to the committee which reported the bill or resolution, and no reservation of objection shall be entertained by the Speaker. Such bills and resolutions, if considered, shall be considered in the House as in the Committee of the Whole. No other business shall be in order on this day unless the House, by two-thirds vote on motion to dispense therewith, shall otherwise determine. On such motion debate shall be limited to five minutes for and five minutes against said motion.

On the third Tuesday of each month after the disposal of such business on the Speaker's table as requires reference only, the Speaker may direct the Clerk to call the bills and resolutions on the Private Calendar, preference to be given to omnibus bills containing bills or resolutions which have previously been objected to on a call of the Private Calendar. All bills and resolutions on the Private Calendar so called, if considered, shall be considered in the House as in the Committee of the Whole. Should objection be made by two or more members to the consideration of any bill or resolution other than an omnibus bill, it shall be recommitted to the committee which reported the bill or resolution and no reservation of objection shall be entertained by the Speaker.

Omnibus bills shall be read for amendment by paragraph, and no amendment shall be in order except to strike out or to reduce amounts of money stated or to provide limitations. Any item or matter stricken from an omnibus bill shall not thereafter during the same session of Congress be included in any omnibus bill.

Upon passage of any such omnibus bill, said bill shall be resolved into the several bills and resolutions of which it is composed, and such original bills and resolutions, with any amendments adopted by the House, shall be engrossed, where necessary, and proceedings thereon had as if said bills and resolutions had been passed in the House severally.

In the consideration of any omnibus bill the proceedings as set forth above shall have the same force and effect as if each Senate and House bill or resolution therein contained or referred to were considered by the House as a separate and distinct bill or resolution.

§ 894. Tuesday as a day for private business.

This provision was adopted in the Sixty-second Congress in lieu of special orders under which pension and private business formerly had been considered. The rule was amended on April 23, 1932 (VII, 846) and was adopted in its present form on March 27, 1935, pp. 4480–89, 4538. Rule XXII, clause 2, prohibits consideration of certain private bills. Under clause 6(e)(2), Rule XV, the Speaker may in his discretion recognize a Member to move a call of the House prior to the call of the Private Calendar (July 8, 1987, p. ——).

§ 895. Methods of considering omnibus bills.

During the consideration of omnibus bills the Chair declines to recognize Members for unanimous consent requests to address the House, (Speaker pro tempore O'Connor, May 7, 1935, p. 7100); motions to strike out the last word are not in order, and requests for extension of time under the five-minute rule are not entertained (Speaker Byrns, March 17, 1936, pp. 3890, 3894-5).

An omnibus private bill is normally passed over by the Clerk when the Private Calendar is called on the first Tuesday of the month, but the House may prescribe, by special order, that such omnibus bills shall be passed over (June 27, 1968, p. 19106). During the consideration of the First Omnibus Bill of 1968, seven roll calls occurred and seven of the fifteen bills carried therein were stricken by motion (Sept. 17, 1968, pp. 27165-84). Amendments to the bill were strictly limited by the rule to those striking out or reducing amounts of money carried in the bill or to provide limitations, and debate on those permissible motions was under the five-minute rule. After the passage of an omnibus bill, it is resolved into the various private bills of which it is composed and each is engrossed and messaged to the Senate as if individually passed; thus it is possible, after passage of the omnibus bill, to lay on the table a private House or Senate bill which was included therein (by unanimous consent) (Sept. 17, 1968, pp. 27184-85).

Where the Speaker in his discretion directs the Clerk to call the Private Calendar on the third Tuesday of the month, omnibus bills on the Calendar are called before individual bills thereon (February 17, 1970, pp. 3605-13). A motion to dispense with the call of the Private Calendar on the third Tuesday of each month, when the call of the Calendar is within the discretion of the Chair, is likewise in order in the Chair's discretion (although this clause only specifically provides for a motion to dispense with the call on the first Tuesday of each month), since no rule or precedent prohibits the motion and it is consistent with the discretionary authority of the Chair to dispense with the call of the entire Calendar (appeal from the Chair's ruling laid on the table) (Nov. 17, 1981, pp. 27770-71).

§ 897. Calendar Wednesday business.

7. On Wednesday of each week no business shall be in order except as provided by clause 4 of this rule unless the House by a two-thirds vote on motion to dispense therewith shall otherwise determine. On such a motion there may be debate not to exceed five minutes for and against. On a call of committees under this rule bills may be called up

from either the House or the Union Calendar, excepting bills which are privileged under the rules; but bills called up from the Union Calendar shall be considered in Committee of the Whole House on the state of the Union. This rule shall not apply during the last two weeks of the session. It shall not be in order for the Speaker to entertain a motion for a recess on any Wednesday except during the last two weeks of the session: *Provided,* That not more than two hours of general debate shall be permitted on any measure called up on Calendar Wednesday, and all debate must be confined to the subject matter of the bill, the time to be equally divided between those for and against the bill: *Provided further,* That whenever any committee shall have occupied one Wednesday it shall not be in order, unless the House by a two-thirds vote shall otherwise determine, to consider any unfinished business previously called up by such committee, unless the previous question had been ordered thereon, upon any succeeding Wednesday until the other committees have been called in their turn under this rule: *Provided,* That when, during any one session of Congress, all of the committees of the House are not called under the Calendar Wednesday rule, at the next session of Congress the call shall commence where it left off at the end of the proceeding session.

§ 898. Decisions on Calendar Wednesday.

The first portion of this rule was adopted March 1, 1909, and amended March 15, 1909. The first and second provisos were adopted January 18, 1916. The last proviso was adopted December 8, 1931 (VII, 881). The rule applies to unprivileged bills only, and when a bill otherwise unprivileged is given a privileged status by unanimous consent or by rule it is automatically rendered ineligible for consideration on Calendar Wednesday (VII, 932–935). House Calendar bills have no preference over Union Calendar bills (VII, 938). The motion to dispense with a call of committees under this rule is privileged and may be made prior to the consideration of District of Columbia business under clause 8 of this rule (June 11, 1973, pp. 19028–30).

When a bill on the Union Calendar is called up on Calendar Wednesday the House automatically resolves itself into the Committee of the Whole House on the state of the Union (VII, 939; Jan. 25, 1984, p. ——), and when a Union Calendar bill is the unfinished business the Speaker declares the House in Committee of the Whole without motion (VII, 940, 942).

The question of consideration may be raised on a bill on the House Calendar on Calendar Wednesday, even after one Wednesday has been devoted to its consideration (VIII, 2447), and the question of consideration is properly raised on Union Calendar bills in the House before automatically going into Committee of the Whole House on the state of the Union (VII, 952).

During the Sixty-first and Sixty-second Congresses it was held that the call of committees rested where the call left off on the preceding day, whether the last call was on a Wednesday or during the morning hour on another day, thus making but one committee call under the two rules. But under the later practice there have been two distinct calls of committees, one under clause 4 of Rule XXIV, the morning hour, and another under clause 7 of Rule XXIV, Calendar Wednesday (VII, 944). Prior to the adoption of the second paragraph of the rule, it was held that one committee could not occupy more than two Calendar Wednesdays (except for unfinished business) until other committees were called, notwithstanding the fact that the call rested on said committee (VII, 944), but the adoption of the second paragraph of the rule has defined the status of debate and unfinished business more explicitly. It was formerly held that a bill undisposed of on Calendar Wednesday became the unfinished business on the following Calendar Wednesday (VII, 965), but since the adoption of the second paragraph of the rule, one committee can occupy but one Calendar Wednesday for the consideration of its business (unless the House by two-thirds vote shall otherwise determine).

The same rule of debate applies to House Calendar bills called up on Calendar Wednesday as on other days, and the Member in charge of the bill may move the previous question at any time (VII, 955).

The previous question having been ordered on a bill undisposed of when the House adjourns Tuesday, the bill goes over as unfinished business until Thursday, and is not in order for consideration on Calendar Wednesday (VII, 890–894). The previous question having been ordered on a bill on Calendar Wednesday, the bill becomes the unfinished business on Thursday (VII, 895, 967).

It is in order to consider a vetoed bill on Calendar Wednesday, since such a question is privileged under the Constitution of the United States (VII, 912), but a bill privileged by reason of the rules of the House cannot be called up on Calendar Wednesday (VII, 932); for example, a general appropriation bill (VII, 904), or a bill under consideration by reason of a special order, unless the special order expressly sets aside Calendar Wednesday (VII, 773), or a conference report (VII, 899). A motion to reconsider an action taken on a bill on Tuesday may be entered, but may not be considered on Calendar Wednesday (VII, 905). Privileged bills may be reported but not considered on Calendar Wednesday (VII, 907), except by unanimous consent (Jan. 25, 1984, p. ——). The Speaker has entertained a unanimous-consent request for business (to send a bill to conference) before the call of committees on Calendar Wednesday (Mar. 28, 1984, p. ——). District of Columbia business is eligible for consideration on Calendar Wednesday (VII, 937).

The Committee on Rules cannot report a rule which is aimed strictly or directly toward setting aside Calendar Wednesday, but the committee is not thereby prevented from reporting a resolution couched in general terms which may indirectly accomplish that ultimate result, such as a resolution providing for six days' suspension of the rules (VIII, 2267).

The motion to grant a committee an additional Wednesday under the second proviso of the Calendar Wednesday rule is in order prior to the Wednesday on which the committee is called (VII, 946).

It has been held that if no Member opposed to the bill desires to claim the hour specified in the rule for general debate against the bill, the time may be claimed by some Member who is in favor of the bill (VII, 962), but this principle has been questioned (VII, 961).

Clause 2(l)(1)(A), Rule XI, requiring the chairman of each committee to report or cause to be reported promptly measures approved by his committee and to take such necessary steps to bring the matter to a vote, is sufficient authority for the chairman to call up a bill on Calendar Wednesday, but any other committee member must obtain specific authority of his committee to call up a reported bill on Calendar Wednesday (IV, 3128; VII, 928, 929; Feb. 22, 1950, p. 2162; Feb. 1, 1984, p. ——; Sept. 12, 1984, p. ——). Prior to the Legislative Reorganization Act of 1946 and the subsequent adoption of Clause 2(l)(1)(A), Rule XI, authority to call up a bill on Calendar Wednesday must have been given to a chairman by his committee (IV, 3127). A Member not authorized to do so may not call up such bill under the Calendar Wednesday Rule (IV, 3128; VII, 928, 929).

§ 899. District of Columbia.

8. The second and fourth Mondays in each month, after the disposition of motions to discharge committees and after the disposal of such business on the Speaker's table as requires reference only, shall, when claimed by the Committee on the District of Columbia, be set apart for the consideration of such business as may be presented by said committee.

The first rule allocating a fixed day for District of Columbia business was adopted in 1870. In 1890 the rule was amended (IV, 3304). This section was again amended December 8, 1931 (VII, 872).

The Committee on the District of Columbia may not, on a District day, call up a bill reported from another committee (IV, 3311). If certain of the committee's bills are on one of the calendars of the Committees of the Whole, a motion to go into committee to consider them is in order (IV, 3310). Bills reported from the District Committee are not so privileged as to prevent their being take up under call of committees on Wednesday (VII, 937). Business unfinished on one District day does not come up on the next unless called up (IV, 3307; VII, 879, 880). The question of consideration may not be demanded against District business generally, but may be demanded against any bill as it is presented (IV, 3308, 3309).

On District days it is in order to go into the Committee of the Whole to consider revenue or general appropriation bills (VI, 716–718; VII, 876, 1123). Consideration of conference reports is in order on District Monday (VIII, 3202). District of Columbia business is in order on the second and fourth Mondays of the month before or after other business (such as motions to suspend the rules), and the fact that the House has considered some District of Columbia business before motions to suspend the rules does not affect the eligibility of further such business after suspensions have been completed (Sept. 17, 1984, p. ——).

RULE XXV.

PRIORITY OF BUSINESS.

§ 900. Decision of questions as to priority of business without debate.

All questions relating to the priority of business shall be decided by a majority without debate.

This rule was adopted in 1803 to prevent obstructive debate (IV, 3061). The question of consideration, under Rule XVI, clause 3, and the motion that the House resolve itself into the Committee of the Whole are not debatable (VIII, 2447; IV, 3062, 3063).

This rule may not be invoked to establish an order of business or to inhibit the Speaker's power of recognition (Speaker Albert, July 31, 1975, p. 26249). It has been held that appeals from decisions of the Chair as to priority of business are not debatable under this rule (V, 6952).

RULE XXVI.

UNFINISHED BUSINESS OF THE SESSION.

§ 901. Resumption of business of a preceding session.

All business before committees of the House at the end of one session will be resumed at the commencement of the next session of the same Congress in the same manner as if no adjournment had taken place.

At first the Congress attempted to follow the rule of the English Parliament that business unfinished in one session should begin anew at the next; but in 1818, after an investigation of a joint committee in 1816, a rule was adopted that House bills remaining undetermined in the House should be continued at the next session after six days. This rule did not reach House bills sent to the Senate; but in 1848 the two Houses remedied this omission by a joint rule. Business referred to committees of the House was still subject to the old rule of Parliament; but in 1860 the present rule was adopted as a supplement to the rule of 1818. In 1890, desiring to do away with the limitation of the six days and apparently overlooking the main purpose of the rule of 1818, the House rescinded that portion of this rule which dated from 1818. Also, in 1876 the joint rules were abrogated, leaving no provision, except the headline of the rule, for the continuance of business not before committees. The practice, however, had become so well established that no question has ever been raised (V, 6727).

The business of conferences between the two Houses is not interrupted by an adjournment of a session which does not terminate the Congress (V, 6260-6262), and even where one House asks a conference at one session the other may agree to it in the next session (V, 6286). Where bills were enrolled and signed by the presiding officers of the two Houses at the close of one session they were sent to the President and approved at the beginning of the next session (IV, 3486-3488).

RULE XXVII.

CHANGE OR SUSPENSION OF RULES.

§ 902. Motions to suspend the rules.

1. No rule shall be suspended except by a vote of two-thirds of the Members voting, a quorum being present; nor shall the Speaker entertain a motion to suspend the rules except on Mondays and Tuesdays, and during the last six days of a session.

This rule has been built up gradually on an old rule of 1794, which provided that no rule should be rescinded without one day's notice. In 1822 a clause was added that no rule should be suspended except by a two-thirds vote; and in 1828 it was provided that the "order of business, as established by the rules," should not be changed except by a two-thirds vote. This rule marks the great purpose of the motion, which was to give a means of getting consideration for bills which could not get forward under the rule for the order of business. Originally in order on any day, the motion was, in 1847, restricted to Mondays of each week, and, in 1880, to the first and third Mondays of each month. In 1874 the old limit of 10 days at the end of the session was reduced to 6 days. In the 93d Congress, the rule was amended to permit the Speaker to recognize for such motions on the first and third Mondays and on the Tuesdays immediately following those days and to eliminate the distinction between days on which committees and individuals has preference (H. Res. 6, Jan. 3, 1973, pp. 26, 27); and in the 95th Congress, the rule was amended to permit the Speaker to recognize for such motions on every Monday and Tuesday (H. Res. 5, Jan. 4, 1977, 95th Cong., pp. 53-70). Originally of great use in establishing the order of business, when the older and more defective rules for the order of business existed, the use of the motion has changed since the House in 1890 adopted rules for the order of business which enables the House on any day to go to any public bills on its calendars. Also about the same time the perfection of the process of getting bills before the House out of order by a majority vote through a report from the Committee on Rules still further diminished the importance of the motion to suspend the rules (V, 6790).

§ 903. Nature of the motion to suspend the rules.

While originally the motion was used to suspend the rule on the order of business in order to consider a particular bill (V, 6852, 6853), in the later practice it is more usual to move "to suspend the rules and pass" the bill (V, 6846, 6847), and a division of the question may not be demanded, either as to the two branches of the motion or as to distinct substantive propositions in the subject of the motion (V, 6141-6143). The motion may not be amended (V, 5322, 5405, 6858; Dec. 21, 1973, pp. 43251-63; June 4, 1985, p. 13983, 13986, 13989), postponed (V, 5322), or laid on the table (V, 5405), and the motion to reconsider may not be applied to a negative vote on the motion (V, 5645, 5646; VIII, 2781). The motion to refer may not be applied to the bill which it is proposed to pass under suspension of the rules (V, 6860). The motion to suspend the rules applied to the parliamentary law of Jefferson's Manual as well as to the other rules of the House (V, 6796), and may even be used to deny the right to have read a paper on which the House is to vote (V, 5278-5284). While it has been held that the right of a Member to have read the paper on which he is called to vote is not changed by the fact that the procedure is by suspension of the rules (V, 5277; VIII, 3400), the precedents are not uniform in this regard, and in earlier instances the separate motion to suspend the rules and dispense with reading of pendings bills, amendments and Senate amendments was held in order (V, 5278-84). Under the modern practice, only the motion "to suspend the rules and pass" is itself read and is held to suspend all rules inconsistent with its purposes, including a rule requiring a recess to be taken (V, 5752). Thus only the title of the bill is normally read by the Clerk, and amendments included in the motion are not reported separately, but the Chair may, in his discretion, where objection is made to that procedure, require the reading of an amendment which is not printed or otherwise available (July 17, 1950, pp. 10448-9). And, on Dec. 21, 1973, pp. 43251-63, where a motion to suspend the rules and agree to a resolution which provided for concurring in a Senate amendment with an amendment consisting of the text of a bill introduced in the House, the Speaker ruled that reading of the resolution itself was sufficient and that it could be reread to the House only by unanimous consent. It may be used also to change a rule (V, 6862), or to make a new rule, as was more frequently done in the earlier years of the House when it was the only way for making a special order except by unanimous consent (IV, 3152-3162). In the later practice special orders may still be made on motion to suspend the rules (IV, 3154); but usually they are made by majority vote of the House on a report from the Committee on Rules (IV, 3169). The motion to suspend may include a series of actions, as the discharge of a committee from consideration of a bill and the passage of it (V, 6850), the reconsideration of the vote passing a bill, amendment of it, and passage again (V, 6849), the permission to a committee to report several bills (V, 6857), an order to the Clerk to incorporate in the engrossment of a general appropriation bill a provision not otherwise in order (IV, 3845), an authorization to the House to entertain a specified motion to suspend the rules on a future day, not a suspension day (IV, 3845), a motion to take a bill (V, 6288; VIII, 3425), or a motion to reconsider, from the table (V, 5640). A motion to suspend the rules may provide for the passage of a bill regardless of whether it has been reported or referred to any calendar or even previously introduced (VIII, 3421), and may provide for agreeing to a conference report which has been ruled out of order by the Speaker (Dec. 20, 1974, p. 41860). One motion to suspend the rules having been rejected, the Speaker may recognize for a similar motion (Dec. 21, 1973, pp. 43270–81).

§ 904. Precedence of the motion to suspend the rules.

In the early practice, when the motion to suspend the rules was used to enable a matter to be taken up for consideration out of order, it was not admitted when a subject was already before the House (V, 5278, 6836, 6837, 6852, 6853). A bill taken up under this early practice might be amended (V, 6842, 6856) by the House, or withdrawn by the mover, in which case another Member might not present it. (V, 6854, 6855). In the later practice, where the motion includes both suspension of the rules and action on the subject it is admitted, although another matter be pending (V, 6834), although the yeas and nays may have been demanded on another highly privileged motion (V, 6835), or although the previous question may have been ordered or moved on another matter (V, 6827, 6831–6833; VIII, 3418). Earlier rulings, however, did not, while a series of Senate amendments were pending, permit a motion to suspend the rules in order to permit a vote to be taken on the amendments in gross (V, 6828, 6830). But in the earlier practice, also, while a matter was pending a motion to suspend the rules in order to dispense with the reading otherwise required was admitted (V, 5278). The motion to suspend the rules has been ruled out of order when the House is considering a bill under a special order (V, 6838); and when a question of high privilege under Rule IX is before the House a motion to suspend the rules and consider another matter is not in order (V, 6825, 6826; VI, 553, 565). But the motion to suspend the rules has been held of equal privilege with the motion to instruct conferees after 20 days of conference, which under clause 1(c), Rule XXVIII, is "of the highest privilege" (Mar. 1, 1988, p. ——). A motion to suspend the rules and approve the Journal was held in order, although the Journal had not been read and the then highly privileged motion to fix the day to which the House should adjourn was pending (IV, 2758). While the motion is of high privilege, it may be superseded by a question of the privilege of the House (III, 2553; VI, 565). Pursuant to clause 8, Rule XVI, the Speaker may entertain one motion to adjourn pending a motion to suspend the rules, but after that vote shall not entertain any other motion until the vote is taken on the motion to suspend the rules. Moreover, in the absence of a motion to suspend, the ordinary motions relating to business of the House may be made on suspension days as on other days (IV, 3080). The motion to suspend the rules may be made on days other than suspension days by unanimous consent (V, 6795) or by adoption of a resolution reported by the Rules Committee. On "suspension days" the motion to suspend the rules has been admitted at the discretion of the Speaker since 1881 (V, 6791–6794, 6845; VIII, 3402–3404), and no appeal may be taken from the Speaker's denial of recognition (II, 1425), and no advance notice to Members of bills to be called up under suspension of the rules is required (Mar. 20, 1978, pp. 7535–6), but the rules forbid the Speaker to entertain a motion to suspend the rules relating to the privilege of the floor (§919; V, 7283; VIII, 3634), the use of the Hall of the House (§918; V, 7270) or prohibiting the introduction of persons in the galleries (§764; VI, 197).

§905. Individual and committee motions to suspend the rules.

Prior to the 93d Congress, the rule gave to individuals preference on the first Monday of the month for making motions to suspend the rules, and preference on the third Mondays for committees to make the motion (V, 6790). In rare instances the Speaker has called the committees in regular order for motions to suspend the rules, but this method is not required (V, 6810, 6811). In the earlier practice the committee motion must have been formally and specifically authorized by the committee (V, 6805–6807), but after the motion was seconded and debate had begun it was too late to raise a question as to the authorization (V, 6808). Under the later practice authorization by a committee is not required (VIII, 3410). The committee may not present a bill which has not been referred to it (V, 6813) and is not within its jurisdiction (V, 6848). A bill offered on a committee suspension day, in the early practice, could carry with it only such amendments as were authorized by a committee (V, 6812). If on a committee day an individual motion was made and seconded, it was then too late to make a point of order (V, 6809).

§906. The second of the motion to suspend the rules.

2. All motions to suspend the rules shall, before being submitted to the House, be seconded by a majority by tellers, if demanded, except that a second shall not be required on a motion to suspend the rules where printed copies of the measure or matter as proposed to be passed or agreed to by the motion have been available for one legislative day before the motion is considered.

This part of the rule was adopted in 1874, but rescinded two years later. In 1880 it was again adopted and has been retained constantly since that time. The object of it was to prevent consumption of the time of the House by forcing consideration of undesirable propositions (V, 6797). The clause was amended in the 96th Congress (H. Res. 5, Jan. 15, 1979, pp. 7–16.) so that a second will not be required where printed copies of the proposed measure have been available. Copies of reports on bills considered under suspension are not required to be available in advance, and if copies of the bill as proposed to be passed, whether or not the bill has been reported, have been available for one legislative day, a second is not required on the motion (May 21, 1979, p. 11943). If the Chair learns after debate has begun on a motion to suspend the rules where a second was not required that the bills' manager has included additional amendments which have not been available for one legislative day, the Chair will direct the Clerk to re-report the title of the bill and then inquire whether a second is demanded (Aug. 6, 1984, p. ——). The Constitutional right of a Member to demand the yeas and nays, or the right of a Member under clause 5(a), Rule I to demand a recorded vote, do not exist on the question of ordering a second under this clause, which only permits the ordering of a second by tellers if a quorum is present (V, 6032-6036; VIII, 3109; Dec. 16, 1981, p. 31851). The fact that a majority of the Members of the House has not passed between the tellers on the question of ordering a second does not conclusively show that a quorum is not present in the Chamber, and the Speaker may count the House to determine whether a quorum is actually present (Dec. 16, 1981, p. 31851). But where a quorum fails on the vote for a second, it has been held that, under Rule XV, clause 4, the yeas and nays are ordered (IV, 3053-3055; Dec. 21, 1973, pp. 43251-63). While it has been held that it is the right of a Member to demand a second but not the duty of the Chair to call for it (V, 6801), it is the custom of the Speaker to ask "Is a second demanded?" (V, 6800). In demanding a second an opponent of the bill is entitled to recognition, a member of the committee reporting the bill has the preference if he be opposed (V, 6802-6804; VIII, 3415) but a minority Member of the House is recognized to demand a second over a majority Member (Dec. 21, 1973, p. 43285). Where a second is not required and the Chair allocates the time in opposition to the motion to the ranking minority member of the reporting committee, a challenge that that member does not qualify by being opposed, in order to control such time, must be made when the time is allocated by the Chair (May 15, 1984, p. ——; Speaker Wright, June 2, 1987, p. ——). It has been held that the right to demand a second is not necessarily precluded by preliminary debate (V, 6800). The motion may be withdrawn (V, 6844; VIII, 3405, 3419), or modified at any time before the second has been ordered (V, 6840) but not afterwards except by unanimous consent (VIII, 3420); and a committee may, under the same circumstances, withdraw a committee motion, even on a succeeding day (V, 6845). Where a second is not required on a motion to suspend the rules—the bill having been available for one legislative day—the motion may be withdrawn at any time before the Chair puts the question and a voice vote is taken thereon (July 27, 1981, p. 17563).

§ 907. The forty minutes of debate on motion to suspend the rules.

3. When a motion to suspend the rules has been submitted to the House or has been seconded pursuant to clause 2 of this rule, it shall be in order, before the final vote is taken thereon, to debate the proposition to be voted upon for forty minutes, one-half of such time to be given to debate in favor of, and one-half to debate in opposition to, such proposition; and the same right of debate shall be allowed whenever the previous question has been ordered on any proposition on which there has been no debate.

Before the adoption of this clause in 1880 (V, 6821) the motion to suspend the rules was not debatable (V, 5405, 6820). It may not be debated before a second is ordered (V, 6799), but after a second is ordered the debate is allowed even though the question would not be debatable under the other rules of the House (V, 6822). The 40 minutes of debate is divided between the mover and the seconder (V, 6823, 6824), unless it develops that the mover is opposed to the bill, in which event some Member in favor is recognized for debate (VIII, 3416). When the mover and seconder divide their time with others, the practice as to alternation of recognitions is not insisted on so rigidly as in other debate (II, 1442). The Member demanding the second and not the Member objecting to the unanimous consent request that a second be considered as ordered is entitled to recognition for debate against the motion to suspend the rules, and it is too late to challenge the Member demanding the second as not being opposed after the second is ordered by the House (Dec. 16, 1981, p. 31851).

This clause formerly included a paragraph (b) dealing with the Speaker's authority to postpone further proceedings on motions to suspend the rules and pass bills or resolutions. Paragraph (b) was added on April 9, 1974 (H. Res. 998, pp. 10195–9), amended on Jan. 4, 1977 (H. Res. 5, pp. 53–70), and amended further in the 96th Congress (H. Res. 5, Jan. 15, 1979, pp. 7–16). The paragraph was deleted entirely in the 97th Congress (H. Res. 5, Jan. 5, 1981, pp. 98–113) when all of the Speaker's postponing authorities were consolidated into Rule I, clause 5.

The last provision of this clause allows 40 minutes of debate when the previous question is ordered on a proposition on which there has been no debate (V, 6821). However, any previous debate on the merits of the main proposition precludes the 40 minutes (V, 5499-5502). The demand for 40 minutes of debate must come before the vote is taken on the main question (V, 5496); is not available when the question on which the previous question is ordered is otherwise nondebatable, such as the motion to close debate (VIII, 2555, 2690); and is not available on incidental motions (V, 5497-8), on propositions previously debated in Committee of the Whole (V, 5505), on conference reports accompanying measures that were debated before being sent to conference (V, 5506-7), or on ancillary measures, such as a concurrent resolution to correct an enrolled bill (V, 5508). Debate allowed under this provision is equally divided and controlled between the person demanding the time and a Member representing the opposition (Sept. 13, 1965, p. 23602-6; May 8, 1985, p. 11073). Priority in recognition for time in opposition is accorded to a Member truly opposed (VIII, 2689).

§ 908. Motion to discharge a committee.

4. A Member may present to the Clerk a motion in writing to discharge a committee from the consideration of a public bill or resolution which has been referred to it thirty days prior thereto (but only one motion may be presented for each bill or resolution). Under this rule it shall also be in order for a Member to file a motion to discharge the Committee on Rules from further consideration of any resolution providing either a special order of business, or a special rule for the consideration of any public bill or resolution favorably reported by a standing committee, or a special rule for the consideration of a public bill or resolution which has remained in a standing committee thirty or more days without action: *Provided,* That said resolution from which it is moved to discharge the Committee on Rules has been referred to that committee at least seven days prior to the filing of the motion to discharge. The motion shall be placed in the custody of the Clerk, who shall arrange some convenient place for the signature of Members. A signature may be withdrawn by a Member in writ-

ing at any time before the motion is entered on the Journal. When a majority of the total membership of the House shall have signed the motion, it shall be entered on the Journal, printed with the signatures thereto in the Congressional Record, and referred to the Calendar of Motions to Discharge Committees.

On the second and fourth Mondays of each month except during the last six days of any session of Congress, immediately after the approval of the Journal, any Member who has signed a motion to discharge which has been on the calendar at least seven days prior thereto, and seeks recognition, shall be recognized for the purpose of calling up the motion, and the House shall proceed to its consideration in the manner herein provided without intervening motion except one motion to adjourn. Recognition for the motions shall be in the order in which they have been entered on the Journal.

When any motion under this rule shall be called up, the bill or resolution shall be read by title only. After twenty minutes' debate, one-half in favor of the proposition and one-half in opposition thereto, the House shall proceed to vote on the motion to discharge. If the motion prevails to discharge the Committee on Rules from any resolution pending before the committee, the House shall immediately vote on the adoption of said resolution, the Speaker not entertaining any dilatory or other intervening motion except one motion to adjourn, and, if said resolution is adopted, then the House shall immediately proceed to its execution. If the motion prevails to discharge one of the standing committees of the House from any public bill or resolution pending before the committee, it shall then be in order for any Member who signed the motion to move that the House proceed to the immediate consideration of such bill or resolution (such motion not being debatable), and such motion is hereby made of high privilege; and if it shall be decided in the affirmative, the bill shall be immediately considered under the general rules of the House, and if unfinished before adjournment of the day on which it is called up it shall remain the unfinished business until it is fully disposed of. Should the House by vote decide against the immediate consideration of such bill or resolution, it shall be referred to its proper calendar and be entitled to the same rights and privileges that it would have had had the committee to which it was referred duly reported same to the House for its consideration: *Provided,* That when any perfected motion to discharge a committee from the consideration of any public bill or resolution has once been acted upon by the House it shall not be in order to entertain during the same session of Congress any other motion for the discharge from that committee of said measure, or from any other committee of any other bill or resolution substantially the same, relating in substance to or dealing with the same subject matter, or from the Committee on Rules of a resolution providing a special order of business for the consideration of any other such bill or resolution, in order that such action by the House on a motion to discharge shall be res adjudicata for the remainder of that session: *Provided further,* That if before any one motion to discharge a committee has been acted upon by the House there are on the Calendar of Motions to Discharge Committees other motions to discharge committees from the consideration of bills or resolutions substantially the same, relating in substance to or dealing with the same subject matter, after the House shall have acted on one motion to discharge, the remaining said motions shall be stricken from the Calendar of Motions to Discharge Committees and not acted on during the remainder of that session of Congress.

This clause was adopted December 8, 1931 and amended January 3, 1935 (VII, 1007). It displaced a rule providing for a motion to instruct a committee to report a public bill or resolution. The first discharge rule was adopted June 17, 1910, pp. 8439, 8445. It was amended during the first session of the Sixty-second Congress, April 4, 5, 1911, pp. 18, 80; and also on February 3, 1912, p. 1685, January 18, 1924, p. 1143, and December 7, 1925, pp. 383, 390.

The phrase "a majority of the total membership of the House" was construed to mean 218 Members (Speaker Byrns, Apr. 15, 1936, p. 5509), and the word "days" has been construed to mean "legislative days" (Speaker Bankhead, Dec. 10, 1937, p. 1300). The rule does not authorize signature of discharge motions by proxy (VII, 1014).

The right to close twenty minute debate on a motion to discharge a Committee is reserved to the proponents of the motion (VII, 1010a); and the chairman of the committee being discharged, if opposed to the motion, has been recognized to control the ten minutes in opposition (Aug. 10, 1970, p. 27999).

Signatures on a motion to discharge a committee may not be made public until the requisite number have signed the motion (VII, 1008; Apr. 12, 1934, p. 6489), and the death or resignation of a Member who has signed a motion does not invalidate his signature (May 31, 1934, p. 10159). It may be withdrawn by his successor (Dec. 7, 1943, p. 10388; Jan. 17, 1946, p. 96; Mar. 5, 1946, p. 1968; July 30, 1946, pp. 10464, 10491; Mar.

2, 1948, pp. 1993, 2001; Jan. 16, 1950, p. 436). The seven days that the motion must be on the calendar before it may be called up begins to run as of the day the motion is placed on the calendar (Dec. 14, 1937, p. 1517).

The point of order provided in clause 5, rule XXI does not apply to an appropriation in a bill which has been taken away from a committee by the motion to discharge (VII, 1019a).

The rule does not apply to a bill that has been reported by a committee during the interval between the placing of a motion to discharge on the calendar and the day when such motion is called up for action in the House (Apr. 23, 1934, p. 7156). The Committee on Rules may not be discharged from further consideration of a resolution providing for an investigating committee (Apr. 23, 1934, p. 7161). Where the Committee on Rules is discharged from further consideration of a resolution under this rule, the House immediately votes on adoption of the resolution and amendments are not in order (Speaker Rayburn, Jan. 24, 1944, pp. 631-2).

Where a measure not requiring consideration in the Committee of the Whole House on the State of the Union is brought before the House by a successful motion to discharge, the Member moving its consideration is recognized in the House under the hour rule (Aug. 10, 1970, p. 28004).

RULE XXVIII.

CONFERENCE REPORTS.

§ 909. High privilege of conference reports: and form of accompanying statement.

1. (a) The presentation of reports of committees of conference shall always be in order, except when the Journal is being read, while the roll is being called, or the House is dividing on any proposition.

The practice of giving conference reports privilege dates from 1850, having had its origin in a temporary rule. This practice was continued by rulings of the Chair until this rule was adopted in 1880 (V, 6443-6446, 6454).

Under the language of the rule a conference report may be presented while a Member is occupying the floor in debate (V, 6451; VIII 3294), while a bill is being read (V, 6448), after the yeas and nays have been ordered (V, 6457), after the previous question has been demanded or ordered (V, 6449, 6450); during a call of the House if a quorum be present (V, 6456) and on Calendar Wednesday (VII, 907), but consideration of such reports yields to Calendar Wednesday business (VII, 899). It even takes precedence of the motion to reconsider (V, 5605), motions to go into the Committee of the Whole for consideration of general appropriation bills (VIII, 3291), consideration of District of Columbia business on Monday (VIII, 3292), unfinished business (Speaker O'Neill, Oct. 4, 1978, p. 33473), and motions to adjourn (V, 6451–6453), although as soon as the report is presented the motion to adjourn may be put (V, 6451–6453). Also the consideration of a conference report may be interrupted, even in the midst of the reading of the Statement, by the arrival of the hour previously fixed for a recess (V, 6524). While it may not be presented while the House is dividing, it may be presented after a vote by tellers and pending the question of ordering the yeas and nays (V, 6447). It also has precedence of a report from the Committee on Rules (V, 6449), and has been permitted to intervene when a special order provides that the House shall consider a certain bill "until the same is disposed of" (V, 6454). Of course, a question of privilege which relates to the integrity of the House as an agency for action may not be required to yield precedence to a matter entitled to priority merely by the rules relating to the order of business (V, 6454). The question of consideration, under clause 3, Rule XVI, may be demanded against a conference report before points of order against the report are raised (VIII, 2439; Speaker Albert, Sept. 28, 1976, p. 33019).

While the rule provides that the managers of the House asking for conference shall leave the papers with the managers of the other (§§ 555, 556), if the managers on the part of the House agreeing to a conference surrender the papers to the House asking the conference, the report may be received first by the House asking the conference (VIII, 3330).

For further discussion of conference reports, see §§ 527–559, Jefferson's Manual.

§ 909a. Time for debate.

(b) The time allotted for debate on any motion to instruct House conferees shall be equally divided between the majority and minority parties, except that if the proponent of the motion and the Member from the other party are both supporters of the motion, one-third of such debate time shall be alloted to a Member who is opposed to said motion.

This paragraph was added in the 101st Congress (H. Res. 5, Jan. 3, 1989, p. ——).

(c) After House conferees on any bill or resolution in conference between the House and Senate shall have been appointed for twenty calendar days and shall have failed to make a report, it is hereby declared to be a motion of the highest privilege to move to discharge said House conferees and to appoint new conferees, or to instruct said House conferees (but only on the day after the calendar day on which the Member making the motion announces to the House his intention to do so and the form of the motion); and, further, during the last six days of any sessions of Congress, it shall be a privileged motion to move to discharge, appoint, or instruct, House conferees after House conferees shall have been appointed thirty-six hours without having made a report.

§ 910. Motions privileged after 20 calendar days of conference.

This clause was adopted December 8, 1931 (VIII, 3225). The notice requirement was added on January 3, 1989 (H. Res. 5, 101st Cong., p. ——). The motion to instruct conferees under this clause may be repeated notwithstanding prior disposition of an identical motion to instruct, since any number of proper motions to instruct are in order after conferees have not reported within 20 days (Speaker Albert, July 22, 1974, pp. 24448–9; July 10, 1985, p. 18440). A motion under this clause may instruct House conferees to insist on holding conference sessions under just and fair conditions, and in executive session if desirable (Aug. 1, 1935, p. 12272), and may instruct House conferees to meet with Senate conferees (May 2, 1984, p. ——). The motion to instruct conferees under this clause is of equal privilege with the motion to suspend the rules on a suspension day (Mar. 1, 1988, p. ——).

(d) Each report made by a committee of conference to the House shall be printed as a report of the House. As so printed, such report shall be accom-

§ 911. The statement accompanying a conference report.

panied by an explanatory statement prepared jointly by the conferees on the part of the House and the conferees on the part of the Senate. Such statement shall be sufficiently detailed and explicit to inform the House as to the effect which the amendments or propositions contained in such report will have upon the measure to which those amendments or propositions relate.

The original rule requiring the submission of a statement was adopted in 1880 (V, 6443) and remained in effect through the 91st Congress. The following precedents are in interpretation of that rule, which required only that the statement be signed by a majority of the House managers (V, 6505, 6506), and did not anticipate a statement jointly prepared by the managers on the part of the House and those on the part of the Senate. The Speaker may require the statement to be in proper form (V, 6513), but it is for the House and not the Speaker to determine whether or not it conforms to the rule in other respects (V, 6511, 6512). A report may not be received without the accompanying statement (V, 6504, 6514, 6515).

The rule was revised in the Legislative Reorganization Act of 1970 (84 Stat. 1140, Sec. 125(b)) and made a part of the standing rules of the House in its present form on January 22, 1971, p. 144 (H. Res. 5, 92d Cong.).

§912. Printing of conference reports and statements in the Record.

2. (a) It shall not be in order to consider the report of a committee of conference until the third calendar day (excluding any Saturday, Sunday, or legal holiday) after such report and the accompanying statement shall have been filed in the House, and such consideration then shall be in order only if such report and accompanying statement shall have been printed in the daily edition of the Congressional Record for the day on which such report and statement shall have been filed; but the preceding provisions of this

sentence do not apply during the last six days of the session. Nor shall it be in order to consider any conference report unless copies of the report and accompanying statement have been available to Members for at least two hours before the beginning of such consideration: *Provided, however,* That it shall always be in order to call up for consideration, notwithstanding the provisions of clause 4(b), Rule XI, a report from the Committee on Rules only making in order the consideration of a conference report notwithstanding this restriction. The time allotted for debate in the consideration of any such report shall be equally divided between the majority party and the minority party, except that if the floor manager for the majority and the floor manager for the minority are both supporters of the conference report, one third of such debate time shall be allotted to a Member who is opposed to said conference report.

(b) It shall not be in order to consider any amendment (including an amendment in the nature of a substitute) proposed by the Senate to any measure reported in disagreement between the two Houses, by a report of a committee of conference that the committee has been unable to agree, until the third calendar day (excluding any Saturday, Sunday, or legal holiday) after such report and accompanying statement shall have been filed in the House, and such consideration then shall be in order only if such report and accompanying statement shall have been printed in the daily edition of the Congressional

Record for the day on which such report and statement shall have been filed; but the preceding provisions of this sentence do not apply during the last six days of the session. Nor shall it be in order to consider any such amendment unless copies of the report and accompanying statement, together with the text of such amendment, have been available to Members for at least two hours before the beginning of such consideration: *Provided, however,* That it shall always be in order to call up for consideration, notwithstanding the provisions of clause 4(b), Rule XI, a report from the Committee on Rules only making in order the consideration of such an amendment notwithstanding this restriction. The time allotted for debate on any such amendment shall be equally divided between the majority party and the minority party, except that if the floor manager for the majority and the floor manager for the minority are both supporters of the original motion offered by the floor manager for the majority to dispose of the amendment, one third of such debate time shall be allotted to a Member who is opposed to said motion.

(c) Any conference report and Senate amendment in disagreement which has been available as provided in paragraphs (a) and (b) of this clause shall be considered as having been read when called up for consideration.

The original rule requiring that conference reports be printed in the Record was adopted in 1902 (V, 6516). The three-day layover requirement in paragraph (a), as well as the provisions relating to the availability of copies of the conference report and the division of debate time, were added by the Legislative Reorganization Act of 1970 [Sec. 125(b)] and made part of the rules in 1971 (H. Res. 5, 92d Cong., Jan. 22, 1971). The first sentence of the clause was again amended in 1972 (H. Res. 1153, Oct. 13, 1972, p. 36023) to clarify the manner of counting the three days for the layover period.

Paragraph (b), relating to the consideration of amendments reported from conference in disagreement, was also added to the rule in 1972 (H. Res. 1153, Oct. 13, 1972, p. 36023) and became effective at the end of the 92d Congress. Paragraph (c) was added to the clause in the 96th Congress (H. Res. 5, Jan. 15, 1979, pp. 7-16).

The second sentence in paragraphs (a) and (b) of this clause was amended, and the third sentence in those paragraphs added on Feb. 26, 1976 (H. Res. 868, 94th Congress, p. 4625) to require copies of conference reports and amendments reported from conference in disagreement to be available for two hours before consideration and to allow for the immediate consideration of a resolution from the Committee on Rules waiving such requirement. For an example of a resolution reported from the Committee on Rules only waiving the availability requirement of this clause and called up the same day reported without a two-thirds vote, see Aug. 10, 1984, p. ——.

When managers report that they have been unable to agree, the report is not acted on by the House (V, 6562; VIII, 3329; Aug. 23, 1957, p. 15816). Until the adoption of paragraph (b), reports in total disagreement were not printed in the Record before the amendment in disagreement were again taken up in the House (VIII, 3299, 3332).

Subparagraphs (a) and (b) of this clause were amended in the 99th Congress to provide that if both the floor manager for the majority and the floor manager for the minority support a conference report, or the original motion offered to dispose of an amendment reported from conference in disagreement, the hour of debate thereon be divided three ways, among the managers and a Member who is opposed (H. Res. 7, Jan. 3, 1985, p. 393). Recognition of one Member in opposition does not depend upon party affiliation and is within the discretion of the Speaker (Dec. 11, 1985, p. 36069; Dec. 16, 1985, p. 36716; Oct. 15, 1986, p. ——), who accords priority in recognition to a member of the conference committee (Speaker Wright, Dec. 21, 1987, p. ——).

The custom has developed, however, of equally dividing between majority and minority parties the time on all motions to dispose of amendments emerging from conference in disagreement, whether reported in disagreement or before the House upon rejection of a conference report by a vote or on a point of order (Speaker Albert, Sept. 27, 1976, pp. 32719-26; Sept. 30, 1976, pp. 34074-100), upon rejection of an initial motion to dispose of the amendment (July 2, 1980, pp. 18357-9), on a motion to concur in a new Senate amendment where the Senate had receded with an amendment from one of its amendments reported from conference in disagreement (Mar. 24, 1983, p. ——), or on a motion to dispose of a further stage of amendment which is subsequently before the House (Aug. 1, 1985, p. 22561; Dec. 19, 1985, p. 38360). A minority Member offering a preferential motion does not thereby control one-half of the time under the original motion if another minority Member has been designated to control the time (Speaker Albert, May 14, 1975, p. 14385). The minority Member in charge controls 30 minutes for debate only and can only yield to other Members for debate (Dec. 4, 1975, p. 38716). Where time for debate on such a motion is equally divided, the previous question may not be moved by the Member first recognized so as to prevent the Member from the other party from controlling half the debate and from offering a proper preferential motion to dispose of the Senate amendment (July 2, 1980, p. 18360).

Following rejection of a conference report on a point of order, debate on a motion to dispose of the Senate amendment remaining in disagreement is evenly divided between the majority and minority under the rationale contained in clause 2(b) (Speaker Albert, Sept. 30, 1976, pp. 34074–100).

§ 913a. Conferees may report germane modification of amendment in nature of substitute.

3. Whenever a disagreement to an amendment in the nature of a substitute has been committed to a conference committee it shall be in order for the Managers on the part of the House to propose a substitute which is a germane modification of the matter in disagreement, but the introduction of any language in that substitute presenting a specific additional topic, question, issue, or proposition not committed to the conference committee by either House shall not constitute a germane modification of the matter in disagreement. Moreover, their report shall not include matter not committed to the conference committee by either House, nor shall their report include a modification of any specific topic, question, issue, or proposition committed to the conference committee by either or both Houses if that modification is beyond the scope of that specific topic, question, issue, or

proposition as so committed to the conference committee.

This provision is derived from Sec. 135(a) of the Legislative Reorganization Act of 1946 (60 Stat. 812) and originally was made a part of the standing rules January 3, 1953, p. 24. The clause was revised on January 22, 1971, p. 144, following the passage of the Legislative Reorganization Act of 1970 (84 Stat. 1140) which carried a similar provision in Sec. 125(b). Where one House strikes out of a bill of the other all after the enacting clause and inserts a new text, House managers, under the restrictions of this clause, may not agree to the deletion of certain language committed to conference if the effect of such deletion results in broadening the scope of the matter in disagreement (Dec. 14, 1971, pp. 46779–80). Where one House authorizes certain funds for a fiscal year and the other House authorizes a lesser amount for that year as well as additional funds for the subsequent year, and neither version contains an overall amount, House managers do not exceed their authority under this rule by including in the report the amount authorized by one House for the first year and the other House for the subsequent year, even though the total authorization resulting from this compromise exceeds that possible under either version (June 8, 1972, pp. 20281–82). Where a House version authorized endowment payments for certain colleges and the Senate version conferred land-grant college status on those institutions and contained a higher endowment figure, House conferees remained within their authority under this clause by accepting the Senate provision on land-grant status and the lower House figure for endowment payments (Speaker Albert, June 8, 1972, pp. 20280–81).

While the scope of differences committed to conference—where one House has amended an existing law and the other House has implicitly taken the position of existing law by remaining silent on the subject—may properly be measured between those issues presented in the amending language and comparable provisions of existing law, the inclusion in a conference report of new matter not specifically contained in the amending version and not demonstrably contained in existing law may be ruled out as an additional issue not committed to conference in violation of this clause (Speaker Albert, Dec. 20, 1974, pp. 41849–50). Thus where one House has amended an existing law and the other House has implicitly taken the position of existing law by only authorizing sums for the purpose of existing law, the scope of differences committed to conference may be measured between issues presented in the amending language and relevant provisions of the existing law; but the inclusion in a conference report of requirements and issues incorporated into existing law which were not contained in either version and which are not repetitive of existing law may be ruled out in violation of this paragraph (Speaker O'Neill, Oct. 14, 1977, pp. 33770–3).

A mere change in phraseology in a conference report (from language in either the House or Senate version) may be permitted to achieve legislative consistency where it is not shown that its effect is to broaden the scope of the language beyond the differences committed to conference, as where the report waives provisions of law for all programs in the bill and the House version waives those provisions for one section of the bill only (the Senate having no comparable provision) but the scope of programs covered by the report was co-extensive with those in the designated section of the House version (Speaker Albert, May 1, 1975, p. 12752). The conferees may include language clarifying and limiting the duties imposed on an official by one House's version where that modification does not expand the authority conferred in that version or contained in existing law (the position of the other House) (Speaker Albert, July 29, 1975, p. 25515) and may confer broader authority on an official than that contained in one House's version if such authority is co-extensive with the authority contained in existing law which the other House has retained (Speaker pro tempore McFall, Apr. 13, 1976, p. 10803). Where the Senate version authorized citizen suits to enforce existing law except where Federal officials were pursuing enforcement proceedings and the House version, with no comparable provision, retained existing law which did not permit such suits, the conferees exceeded the scope of the differences by further prohibiting citizen suits where State officials were pursuing enforcement proceedings—a new exception allowing State preemption of citizen suits (Speaker pro tempore McFall, Sept. 27, 1976, p. 33019). A point of order was sustained against a motion to instruct conferees since directing the conferees to agree to matter violating this clause: the House bill created an energy trust fund composed of certain revenues to be distributed by subsequent legislation; the Senate amendment created a similar trust fund with suggested but not mandated distribution, and the motion directed House conferees to insist on a mandatory allocation of revenues in question among specified purposes, some of which were not addressed in the Senate amendment (Feb. 28, 1980, pp. 4304–5).

Prior to the 1971 revision of this clause, where one House struck out of a bill of the other all after the enacting clause and inserted a new text, conferees could discard language occurring both in the bill and substitute (VIII, 3266) and exercise broad discretion in incorporating germane amendments (VIII, 3263–3265), even to the extent of reporting a new bill germane to the subject (V, 6421, 6423, 6424; VIII, 3248). But the present language of the rule prohibits the inclusion in a conference report or in a motion to instruct House conferees of additional topics not committed to conference by either House or beyond the scope of the differences committed to conference, and the precedents predating the adoption of this clause in 1971 must be read in light of the explicit restrictions now contained in the clause (Speaker pro tempore McFall, Sept. 27, 1976, pp. 32719–20). Some latitude, however, remains to House managers to eliminate specific words or phrases contained in either version and add words or phrases not included in either version so long as they remain within the scope of the differences committed to conference and do not incorporate additional topics, issues or propositions not committed to conference (Speaker Albert, Sept. 28, 1976, pp. 33020-3).

§ 913b. Nongermane matter in conference agreements.

4. (a) With respect to any report of a committee of conference called up before the House containing any matter which would be in violation of the provisions of clause 7 of Rule XVI if such matter had been offered as an amendment in the House, and which—

(1) is contained in any Senate amendment to that measure (including a Senate amendment in the nature of a substitute for the text of that measure as passed by the House) accepted by the House conferees or agreed to by the conference committee with modification; or

(2) is contained in any substitute agreed to by the conference committee; it shall be in order, at any time after the reading of the report has been completed or dispensed with and before the reading of the statement, or immediately upon consideration of a conference report if clause 2(c) of this rule applies, to make a point of order that such nongermane matter, as described above, which shall be specified in the point of order, is contained in the report.

For the purposes of this clause, matter which—

(A) is contained in any substitute agreed to by the conference committee;

(B) is not proposed by the House to be included in the measure concerned as passed by the House; and

(C) would be in violation of clause 7 of Rule XVI if such matter had been offered in the House as an amendment to the provisions of that measure as so proposed in the form passed by the House;

shall be considered in violation of such clause 7.

(b) If such point of order is sustained, it then shall be in order for the Chair to entertain a motion, which is of high privilege, that the House reject the nongermane matter covered by the point of order. It shall be in order to debate such motion for forty minutes, one-half of such time to be given to debate in favor of, and one-half in opposition to, the motion.

(c) Notwithstanding the final disposition of any point of order made under paragraph (a), or of any motion to reject made pursuant to a point of order under paragraph (b), of this clause, it shall be in order to make further points of order on the ground stated in such paragraph (a), and motions to reject pursuant thereto under such paragraph (b), with respect to other nongermane matter in the report of the committee of conference not covered by any previous point of order which has been sustained.

(d) If any such motion to reject has been adopted, after final disposition of all points of order and motions to reject under the preceding provisions of this clause, the conference report shall be considered as rejected and the question then pending before the House shall be—

(1) whether to recede and concur in the Senate amendment with an amendment which shall consist of that portion of the conference report not rejected; or

(2) if the last sentence of paragraph (a) of this clause applies, whether to insist further on the House amendment.

If all such motions to reject are defeated, then, after the allocation of time for debate on the conference report as provided in clause 2(a) of this Rule, it shall be in order to move the previous question on the adoption of the conference report.

The last sentence of clause 4(a) was added and clause 4(d) was amended by H. Res. 998 on April 9, 1974, to become effective on the thirtieth day after the adoption of the resolution (pp. 10195–99), in order to make this clause applicable to provisions originally contained in Senate bills sent to conference, and not merely to Senate amendments to House bills in conference. The original clause was included as part of the revision of Rules XX and XXVIII which took place in the 92d Congress (H. Res. 1153, Oct. 13, 1972, p. 36023). At the time the original clause 4 was adopted, the existing clause 3 of Rule XX was repealed; the latter clause had placed a restriction on the authority of House conferees to agree to Senate amendments which would have been in violation of clause 7, Rule XVI if offered in the House, without the prior permission of the House. The clause was further amended in the 96th Congress (H. Res. 5, Jan. 15, 1979, pp. 7–16) to provide that if the conference report is considered read under clause 2(c) of this rule, a point of order under this clause must be made immediately upon consideration of the conference report.

The procedure provided in this clause was first utilized on September 11, 1973 (pp. 29243–6), when the Chair sustained two points of order against portions of a conference report which were modifications of portions of a Senate amendment in the nature of a substitute not germane to a House bill. If any motion to reject is adopted under this clause and the matter then pending before the House consists of numbered Senate amendments in disagreement, the pending question is whether to dispose of each Senate amendment not rejected as recommended in the conference report and to insist on disagreement to those amendments which have been rejected.

Under paragraph (b) of this clause where a point of order against a portion of a conference report has been sustained under this clause, the Speaker will not entertain another point of order against the report or against another portion thereof until a motion to reject the portion held nongermane (if made) has been disposed of (Speaker Albert, Dec. 15, 1975, p. 40671). The Member representing the conference committee in opposition to a motion to reject under this clause, and not the proponent of the motion, has the right to close debate thereon (Oct. 15, 1986, p. ——).

Once a motion to reject a nongermane portion has been adopted by the House and the Speaker has recognized a Member to offer a motion comprising the pending question under this clause, the report is rejected and it is too late to make a point of order against the entire conference report under clause 3 of this rule (Speaker Albert, Dec. 15, 1975).

Where possible, the Speaker rules on points of order against conference reports which if sustained will vitiate the entire conference report (as under clause 3 of this rule or under the Congressional Budget Act) before entertaining points of order under this clause (Speaker Albert, Sept. 23, 1976, pp. 32099-100).

§ 913c. Nongermane matter in amendments in disagreement.

5. (a)(1) With respect to any amendment (including an amendment in the nature of a substitute) which—

(A) is proposed by the Senate to any measure and thereafter—

(i) is reported in disagreement between the two Houses by a committee of conference; or

(ii) is before the House, the stage of disagreement having been reached; and

(B) contains any matter which would be in violation of the provisions of clause 7 of Rule XVI if such matter had been offered as an amendment in the House;

it shall be in order, immediately after a motion is offered that the House recede from its disagreement to such amendment proposed by the

Senate and concur therein and before debate is commenced on such motion, to make a point of order that such nongermane matter, as described above, which shall be specified in the point of order, is contained in such amendment proposed by the Senate.

(2) If such point of order is sustained, it then shall be in order for the Chair to entertain a motion, which is of high privilege, that the House reject the nongermane matter covered by the point of order. It shall be in order to debate such motion for forty minutes, one-half of such time to be given to debate in favor of, and one-half in opposition to, the motion.

(3) Notwithstanding the final disposition of any point of order made under subparagraph (1), or of any motion to reject made pursuant to a point of order under subparagraph (2), of this paragraph, it shall be in order to make further points of order on the ground stated in such subparagraph (1), and motions to reject pursuant thereto under such subparagraph (2), with respect to other nongermane matter in the amendment proposed by the Senate not covered by any previous point of order which has been sustained.

(4) If any such motion to reject has been adopted, after final disposition of all points of order and motions to reject under the preceding provisions of this clause, the motion to recede and concur shall be considered as rejected, and further motions—

(A) to recede and concur in the Senate amendment with an amendment, where appropriate (but the offering of which is not in order unless copies of the language of the Senate amendment, as proposed to be amended by such motion, are then available on the floor when such motion is offered and is under consideration);

(B) to insist upon disagreement to the Senate amendment and request a further conference with the Senate; and

(C) to insist upon disagreement to the Senate amendment;

shall remain of high privilege for consideration by the House. If all such motions to reject are defeated, then, after the allocation of time for debate on the motion to recede and concur as provided in clause 2(b) of this Rule, it shall be in order to move the previous question on such motion.

(b)(1) With respect to any such amendment proposed by the Senate as described in paragraph (a) of this clause, it shall not be in order to offer any motion that the House recede from its disagreement to such Senate amendment and concur therein with an amendment, unless copies of the language of the Senate amendment, as proposed to be amended by such motion, are then available on the floor when such motion is offered and is under consideration.

(2) Immediately after any such motion is offered and is in order and before debate is com-

menced on such motion, it shall be in order to make a point of order that nongermane matter, as described in subparagraph (1) of paragraph (a) of this clause, which shall be specified in the point of order, is contained in the language of the Senate amendment, as proposed to be amended by such motion, copies of which are then available on the floor.

(3) If such point of order is sustained, it then shall be in order for the Chair to entertain a motion, which is of high privilege, that the House reject the nongermane matter covered by the point of order. It shall be in order to debate such motion for forty minutes, one-half of such time to be given to debate in favor of, and one-half in opposition to, the motion.

(4) Notwithstanding the final disposition of any point of order under subparagraph (2), or of any motion to reject made pursuant to a point of order under subparagraph (3), of this paragraph, it shall be in order to make further points of order on the ground stated in subparagraph (1) of paragraph (a) of this clause, and motions to reject pursuant thereto under subparagraph (3) of this paragraph, with respect to other nongermane matter in the language of the Senate amendment, as proposed to be amended by the motion described in subparagraph (1) of this paragraph, not covered by any previous point of order which has been sustained.

(5) If any such motion to reject has been adopted, after final disposition of all points of order and motions to reject under the preceding

provisions of this paragraph, the motion to recede and concur in the Senate amendment with an amendment shall be considered as rejected, and further motions—

(A) to recede and concur in the Senate amendment with an amendment, where appropriate (but the offering of which is not in order unless copies of the language of the Senate amendment, as proposed to be amended by such motion, are then available on the floor when such motion is offered and is under consideration);

(B) to insist upon disagreement to the Senate amendment and request a further conference with the Senate; and

(C) to insist upon disagreement to the Senate amendment;

shall remain of high privilege for consideration by the House. If all such motions to reject are defeated, then, after the allocation of time for debate on the motion to recede and concur in the Senate amendment with an amendment as provided in clause 2(b) of this Rule, it shall be in order to move the previous question on such motion.

(c) If, on a division of a motion that the House recede and concur, with or without amendment, from its disagreement to any such Senate amendment as described in paragraph (a)(1) of this clause, the House agrees to recede, then, before debate is commenced on concurring in such Senate amendment, or on concurring therein with an amendment, it shall be in order to make and dispose of points of order and motions to reject with respect to such Senate amendment in accordance with applicable provisions of this clause and to effect final determination of these matters in accordance with such provisions.

This clause was added in the 93d Congress by H. Res. 998, which deleted from Rule XX, clause 1 and transferred to this clause the procedures concerning disposition of Senate non-germane amendments (April 9, 1974, pp. 10195–9). Clause 5(b) was first utilized on July 31, 1974, p. 26083, when the Chair sustained a point of order against a portion of a motion to recede and concur in a Senate amendment (reported from conference in disagreement) with a further amendment, on the ground that that portion of the Senate amendment contained in the motion was not germane to the House-passed measure, and a motion rejecting that portion of the motion to recede and concur with an amendment was offered and defeated. Clause 5(b) is not applicable to a provision contained in a motion to recede and concur with an amendment which was not contained in any form in the Senate version and which is not therefore a modification of the Senate provision, the only requirement in such circumstances being that the motion as a whole be germane to the Senate amendment as a whole under clause 7, Rule XVI. (Speaker pro tempore Kazen, Oct. 4, 1978, p. 33502; June 30, 1987, p. ——). A point of order under clause 5, Rule XXI (appropriations on a legislative bill) against a motion to dispose of a Senate amendment in disagreement which, if sustained, would vitiate the entire motion, must be disposed of prior to a point of order under this clause which, if sustained, would merely permit a separate vote on rejection of that portion of the motion (Oct. 1, 1980, pp. 28638–42).

§ 913d. Open conference meetings.

6. (a) Each conference committee meeting between the House and Senate shall be open to the public except when the House, in open session, has determined by a rollcall vote of a majority of those Members voting that all or part of the meeting shall be closed to the public.

(b)(1) After the reading of the report and before the reading of the joint statement, or immediately upon consideration of a conference report if clause 2(c) of this rule applies, a point of order may be made that the committee of conference making the report to the House has failed to comply with paragraph (a) of this clause.

(2) If such point of order is sustained, the conference report shall be considered as rejected, the House shall be considered to have insisted upon its amendment(s) or upon disagreement to the amendment(s) of the Senate, as the case may be, and to have requested a further conference with the Senate, and the Speaker shall be authorized to appoint new conferees without intervening motion.

This clause as originally added to Rule XXVIII on January 14, 1975 (H. Res. 5, 94th Cong., p. 20) provided that conference committee meetings be open except where a majority of the managers of the House or Senate voted to close the meeting, and provided that the clause not become effective until the Senate adopted a similar rule. The Senate adopted an identical rule on November 5, 1975, p. 35203. The clause was substantially changed on January 4, 1977 (H. Res. 5, 95th Cong., pp. 53-70) to require that conference meetings be open except where the House by rollcall vote determines that a meeting may be closed, to allow a point of order against a conference report where the conferees have violated this clause, and to provide for subsequent disposition of the matter reported from conference should such a point of order be sustained, and was further amended in the 96th Congress (H. Res. 5, Jan. 5, 1979, pp. 7-16) to provide that if the conference report is considered read under clause 2(c) of this rule, a point of order under this clause must be made immediately upon consideration of the conference report.

At any time after a bill has been sent to conference and conferees have been appointed by the Speaker, a motion pursuant to this clause authorizing a conference committee to close its meetings to the public is privileged for consideration in the House, is debatable for one hour within the control of the Member offering the motion, and must be voted on by a rollcall vote (Speaker O'Neill, May 23, 1977, pp. 15880-4; Apr. 13, 1978, p. 10128). While the Chair does not normally look behind signatures of conferees to determine the propriety of conference procedure, if proposed conferees have signed a conference report before they have been formally appointed in both Houses and do not meet formally in open session after such appointment, the conference report is subject to a point of order under this clause and to automatic recommital to conference (Dec. 20, 1982, p. 32896). Although a motion to close a conference committee meeting "to the public" would, under the precedents (see V, 6254, fn.), exclude Members who were not conferees, a motion may be offered as privileged under this clause to authorize a conference committee to close its meetings to the public, except to Members of Congress (Speaker O'Neill, May 23, 1977, pp. 15880-4).

Rule XLVIII, clause 11, adopted on July 14, 1977 (H. Res. 658, pp. 22932-49), provides that this paragraph does not apply to conference committee meetings respecting legislation (or any part thereof) reported from the Permanent Select Committee on Intelligence.

RULE XXIX.

SECRET SESSION.

§ 914. Secret session of the House.

Whenever confidential communications are received from the President of the United States, or whenever the Speaker or any Member shall inform the House that he has communications which he believes ought to be kept secret for the present, the House shall be cleared of all persons except the Members and officers thereof, and so continue during the reading of such communications, the debates and proceedings thereon, unless otherwise ordered by the House.

This rule, in a somewhat different form, was adopted in 1792, although secret sessions had been held by the House before that date. They continued to be held at times with considerable frequency until 1830. In 1880, at the time of the general revision of the rules, the House concluded to retain the rule, although it had been long in disuse (V, 7247; VI, 434).

The two Houses have legislated in secret session, transmitting their messages also in secrecy (V, 7250); but the House has declined to be bound to secrecy by act of the Senate (V, 7249). Motions to remove the injunction of secrecy should be made with closed doors (V, 7254). In 1843 a confidential message from the President was referred without reading; but no motion was made for a secret session (V, 7255).

The House and not the Committee of the Whole determines whether the Committee may sit in executive session, and an inquiry relative to whether the Committee of the Whole should sit in secret session is properly addressed to the Speaker and not to the Chairman of the Committee of the Whole (May 9, 1950, p. 6746; June 6, 1978 p. 16376; June 20, 1979, pp. 15710–1). A Member seeking to offer the motion that the House resolve itself into secret session must qualify, as provided by the rule, by asserting that he himself has a secret communication to make to the House (June 6, 1978, p. 16376).

On June 20, 1979, the House adopted by voice vote a motion that the House resolve itself into secret session pursuant to this rule (the first such occasion since 1830), where the Member offering the motion had ensured the Speaker that he had confidential communications to make to the House as required by the Rule (Speaker pro tempore Wright, pp. 15711–3). The Speaker pro tempore announced on that occasion before the commencement of the secret session that the galleries would be cleared of all persons, that the Chamber would be cleared of all persons except Members and those officers and employees specified by the Speaker whose attendance was essential to the functioning of the secret session, who would be required to sign an oath of secrecy, and that all proceedings in the secret session must be kept secret until otherwise ordered by the House (June 20, 1979, pp. 15711–3). Where the House has concluded a secret session and has not voted to release the transcripts of that session, the injunction of secrecy remains and the Speaker may informally refer the transcripts to appropriate committees for their evaluation and report to the House as to ultimate disposition to be made (June 20, 1979, pp. 15711–3).

The following procedures apply during a secret session. The motion for a secret session is not debatable. The Member who had offered the motion for a secret session may be recognized for one hour of debate, and the normal rules of debate, including the principle that no motions would be in order unless he yields for that purpose, apply. The Speaker having found that a Member has qualified to make the motion for a secret session, having confidential communications to make, no point of order lies that the material in question must be submitted to the Members to make that determination (the motion for a secret session having been adopted by the House). No point of order lies in secret session that employees designated by the Speaker as essential to the proceedings, who have signed an oath of secrecy, may not be present. A motion in secret session to make public the proceedings therein is debatable for one hour, within narrow limits of relevancy. At the conclusion of debate in secret session, a Member may be recognized to offer a motion that the session be dissolved (July 17, 1979, pp. 19057–9).

The House conducted another secret session in the 96th Congress to receive confidential communications consisting of classified information in the possession of the Committee on Foreign Affairs and the Permanent Select Committee on Intelligence, which those committees had authorized to be used in a secret session of the House if ordered; on that occasion the Speaker overruled a point of order against the motion for a secret session since the Speaker must rely on the assurance of a Member that he has confidential communications to make to the House, and since the Speaker was aware that the Committee with possession of the materials had authorized those materials to be used in a secret session (Feb. 25, 1980, pp. 3618–9). Another secret session was held in the 98th Congress pending consideration of a bill amending the Intelligence Authorization Act to prohibit U.S. support for military or paramilitary operations in Nicaragua (July 19, 1983, p. ——).

The House may subsequently by unanimous consent order printed in the Congressional Record proceedings in secret session, with appropriate deletions and revisions agreeable to the Committees to which the secret transcript has been referred for review (July 17, 1979, p. 19049).

RULE XXX.

READING OF PAPERS.

§ 915. Objections to reading of papers.

When the reading of a paper other than one upon which the House is called to give a final vote is demanded, and the same is objected to by any Member, it shall be determined without debate by a vote of the House.

This rule was adopted in 1794 and amended in 1802 and 1880 (V, 5257).

§ 916. Papers read on demand of a Member.

It recognizes the right of the Member under the general parliamentary law to have read the paper on which the House is to vote (V, 5258), but when that paper has been read once, the reading may not be repeated unless by order of the House (V, 5260). The right may be abrogated by suspension of the rules (V, 5278–5284; VIII, 3400); but is not abrogated simply by the fact that the current procedure is taking place under the rule for suspension (V, 5273–5277). On a motion to refer a report the reading of it may be demanded as a matter of right but the latest ruling leaves to the House to determine whether or not an accompanying record of testimony should be read (V, 5261, 5262). In general the reading of a report is held to be in the nature of debate (V, 5292); but where a report presents facts and conclusions but no legislative proposition it is read if submitted for action (IV, 4663). Where a paper is offered as involving a matter of privilege it may be read to the House (III, 2597; VI, 606; VIII, 2599), rather than by the Speaker privately (III, 2546), but a Member may not, as a matter of right, require the reading of a book or paper on suggestion that it contains matter infringing on the privileges of the House (V, 5258). The rule prohibiting the reading of papers in debate was held to apply to the exhibition of articles as evidence or in exemplification in debate (VIII, 2452, 2453; June 2, 1937, pp. 6104–05; Aug. 5, 1949, p. 10859). While Members may use exhibits such as charts during debate subject to this rule, the Speaker may, pursuant to his authority to preserve order and decorum under Rule I, direct the removal of a chart from the well of the House which is not being utilized during debate (Apr. 1, 1982, p. 6304).

§ 917. Papers read by consent of the House.

The reading of papers other than the one on which the vote is about to be taken is usually permitted without question (V, 5258), and the Member in debate usually reads or has read such papers as he pleases, but this privilege is subject to the authority of the House if another Member objects (V, 5285–5288, 5289–5291; VIII, 2597, 2602; Dec. 19, 1974, p. 41425; Dec. 10, 1987, p. ——). This principle applies even to the Member's own written speech (V, 5258; VIII, 2598), to a report which he proposed to have read in his own time or to read in his place (V, 5293), and to excerpts from the Congressional Record (VIII, 2597). But, on a motion to lay on the table, a demand for the reading of a paper other than the one to which the motion applied was overruled (V, 5297); and after the previous question is ordered a Member may not ask the decision of the House as to the reading of a paper not before the House for action (V, 5296), even though it be the report of the committee (V, 5294, 5295). (See §§ 432–436 for further discussion.) The consent of the House pursuant to this Rule for a Member to read a paper in debate only permits the Member seeking such permission to read as much of the paper as possible in the time yielded or allotted to that Member, and does not necessarily grant permission to read or to insert the entire document (Mar. 1, 1979, p. 3748). Where a Member objects to another's reading from a paper the Chair puts the question without debate, and it is not in order under the guise of parliamentary inquiry to debate that question by indicating that the objection is a dilatory tactic (Dec. 10, 1987, p. ——).

RULE XXXI.

HALL OF THE HOUSE.

§ 918. Use of the Hall of the House.

The Hall of the House shall be used only for the legislative business of the House and for the caucus meetings of its Members, except upon occasions where the House by resolution agrees to take part in any ceremonies to be observed therein; and the

Speaker shall not entertain a motion for the suspension of this rule.

Rules relating to the use of the Hall were adopted as early as 1804. The present form of the rule dates from 1880 (V, 7270). It was renumbered January 3, 1953, p. 24.

RULE XXXII.

OF ADMISSION TO THE FLOOR.

§ 919. Persons and officials admitted to the floor during sessions of the House.

1. The persons hereinafter named, and none other, shall be admitted to the Hall of the House or rooms leading thereto, viz: The President and Vice President of the United States and their private secretaries, judges of the Supreme Court, Members of Congress and Members-elect, contestants in election cases during the pendency of their cases in the House, the Secretary and Sergeant-at-Arms of the Senate, heads of departments, foreign ministers, governors of States, the Architect of the Capitol, the Librarian of Congress and his assistant in charge of the Law Library, the Resident Commissioner to the United States from Puerto Rico, each Delegate to the House, such persons as have, by name, received the thanks of Congress, the Parliamentarian, elected officers and elected minority employees of the House (other than Members); and ex-Members of the House of Representatives, former Parliamentarians of the House, and former elected officers and elected minority employees of the House, subject to the provisions of clause 3 of this rule; and clerks of committees when business from their committee is under consideration and not

more than one person from a Member's staff when that Member has an amendment under consideration, subject to the provisions of clause 4 of this rule; and it shall not be in order for the Speaker to entertain a request for the suspension of this rule or to present from the chair the request of any Member for unanimous consent.

This rule was subjected to many changes from 1802 until 1880 (V, 7823; VIII, 3634), was renumbered on Jan. 3, 1953 (p. 24), and was substantially amended in the 94th Congress (H. Res. 1435, Oct. 1, 1976, pp. 35175–80). The latter amendment to the rule changed clause 1 and added clause 3 to clarify the conditions under which former Members, officers and employees were entitled to admission to the floor.

The portion of this clause which permits clerks of committees access to the floor during the consideration of business from their committee has been interpreted by the Speaker to allow four professional staff members and one clerk on the floor at one time (Speaker Albert, June 8, 1972, p. 20318; Speaker O'Neill, Jan. 26, 1977). The Legislative Reorganization Act of 1970, section 503(3) (84 Stat. 1140, 1202; 2 U.S.C. 281b(3)) also allows two staff members of the Legislative Counsel access to the floor to assist the committee.

The rule was amended in the 92d Congress to include the Delegate from the District of Columbia among those having the privilege of the floor (H. Res. 5, Jan. 22, 1971, p. 144), and later in that same Congress was again revised to permit all Delegates to enjoy the privilege (H. Res. 1153, Oct. 13, 1972, pp. 36021–23). The latter revision was necessary because of the enactment of Public Law 92–271, which created the positions of Delegate from Guam and Delegate from the Virgin Islands. Officers and elected employees, both present and former, were given floor privileges by the adoption of this same resolution (H. Res. 1153, 92d Cong.) but had in fact, by custom, been permitted on the floor prior to this change in the rule.

The portion of the rule forbidding the Speaker to entertain requests for suspension of the rule applies also to the Chairman of the Committee of the Whole (V, 7285). "Heads of departments" means members of the President's Cabinet, and not subordinate executive officers, and "foreign ministers" means ministers from foreign governments only. "Governors of States" does not include governors of Territories (V, 7283; VIII, 3634).

An alleged violation of the rule relating to admission to the floor presents a question of privilege (III, 2624, 2625; VI, 579), but not a higher question of privilege than an election case (III, 2626). In one case where an ex-Member was abusing the privilege, he was excluded by direction of the Speaker (V, 7288), but in another case the Speaker declared it a matter for the House and not the Chair to consider (V, 7286). In one case an alleged abuse was inquired into by a select committee (V, 7287). Former Members of the House do not have the privilege of the Hall of the House nor rooms leading thereto when they are personally interested in legislation being considered or who are in the employ of an organization that is interested in legislation before the Congress (Speaker Rayburn Oct. 2, 1945, p. 9251). While former Members of Congress are entitled to the privilege of the floor they may not manifest approval or disapproval of the proceedings (VIII, 3635). The Speaker announced his intention to strictly enforce the rule to prevent a proliferation of committee and other staff on the floor (Aug. 22, 1974, p. 30027; Jan. 19, 1981, p. 402; Jan. 25, 1983, p. 224). The Speaker announced that committee staff would be required to display staff badges on the floor in exchange for identification cards prior to admission to the floor (Speaker O'Neill, Jan. 21, 1986, p. ——; Speaker Wright, Jan. 6, 1987, p. ——).

§ 920. Admission to the floor when the House is not sitting.

2. There shall be excluded at all times from the Hall of the House of Representatives and the cloakrooms all persons not entitled to the privilege of the floor during the session, except that until fifteen minutes of the hour of the meeting of the House persons employed in its service, accredited members of the press entitled to admission to the press gallery, and other persons on request of Members, by card or in writing, may be admitted.

This clause was adopted in 1902 (V, 7346).

§ 921a. Former Members and officers.

3. Ex-Members of the House of Representatives, former Parliamentarians of the House, and former elected officers and former elected minority employees of the House, shall be entitled to the privilege of admission to the Hall of the House and rooms leading thereto only if they do not have any direct personal or pecuniary interest in any legislative measure pending before the House or re-

ported by any committee of the House and only if they are not in the employ of, or do not represent, any party or organization for the purpose of influencing, directly or indirectly, the passage, defeat or amendment of any legislative measure pending before the House, reported by any committee of the House or under consideration in any of its committees or subcommittees. The Speaker shall promulgate such regulations as may be necessary to implement the provisions of this rule and to ensure its enforcement.

This clause was added in the 94th Congress (H. Res. 1435, Oct. 1, 1976, pp. 35175–80) to consolidate in one clause and to clarify the restrictions on admittance to the floor of former Members, officers and employees and to give the Speaker the power to promulgate regulations to enforce the rule. Pursuant to this authority, the Speaker issued regulations addressing former Members (Jan. 6, 1977, p. 321) and committee staff (Jan. 26, 1977, p. 2333).

A former Member is not entitled to the privileges of the floor under this clause if he (1) has a direct personal or pecuniary interest in legislation under consideration in the House or reported by any committee, or (2) represents any party or organization for the purpose of influencing the disposition of legislation pending before the House, reported by any committee or under consideration in any committee or subcommittee (Speaker pro tempore Brademas, June 7, 1978, p. 16625).

§ 921b. Members' staff.

4. Persons from Member's staffs admitted to the Hall of the House or rooms leading thereto under clause 1 shall be admitted only upon prior notification to the Speaker. No such person or clerk of a committee so admitted under clause 1 shall engage in efforts in the Hall of the House or rooms leading thereto to influence Members with regard to the legislation being amended. Such persons and clerks shall remain at the desk and are admitted only to advise the Member or committee respon-

sible for their admission. Any such person or clerk who violates this clause may be excluded during the session from the Hall of the House and rooms leading thereto by the Speaker.

This final clause of the rule was added on Jan. 4, 1977 (H. Res. 5, 95th Cong., pp. 53–70) to extend the privilege of the floor to one person from the staff of a Member who has an amendment under consideration. The Speaker promulgated regulations for the implementation of this clause on Jan. 26, 1977, p. 2333. In the 97th Congress, the Speaker announced that personal staff of Members did not have the privilege of the floor and that committee staff, permitted on the floor when business from their committees is under consideration, were required to remain unobstrusively by the committee tables (Aug. 18, 1982, p. 21934).

RULE XXXIII.

OF ADMISSION TO THE GALLERIES.

§922. The various galleries and admission thereto.

The Speaker shall set aside a portion of the west gallery for the use of the President of the United States, the members of his Cabinet, justices of the Supreme Court, foreign ministers and suites, and the members of their respective families, and shall also set aside another portion of the same gallery for the accommodation of persons to be admitted on the card of Members. The southerly half of the east gallery shall be assigned exclusively for the use of the families of Members of Congress, in which the Speaker shall control one bench, and on request of a Member the Speaker shall issue a card of admission to his family, which shall include their visitors, and no other person shall be admitted to this section.

This rule was adopted in 1880 (V, 7302). It was renumbered January 3, 1953, p. 24.

On special occasions the House sometimes makes a special rule for admission to the galleries (V, 7303), as on the occasion of the electoral count (III, 1961), of an address by the President, and of public funerals.

RULE XXXIV.

OFFICIAL AND OTHER REPORTERS.

§923. Reporters of debates and committee stenographers.

1. The appointment and removal, for cause, of the official reporters of the House, including stenographers of committees, and the manner of the execution of their duties shall be vested in the Clerk, subject to the direction and control of the Speaker.

From 1874 until March 1, 1978, the appointment and removal of the official reporters, and the manner of the execution of their duties, was vested in the Speaker (V, 6958); effective March 1, 1978 (H. Res. 959, Jan. 23, 1978, p. 431) those responsibilities were vested in the Clerk, subject to the direction and control of the Speaker.

The reporters of debates have borne an important part in the evolution by which the House has built up the system of a daily verbatim report of its proceedings, made by its own corps of reporters (V, 6959). Since these reporters have become officers of the House a correction of the Congressional Record has been held a question of privilege (V, 7014–7016).

The arrangement, style, etc., of the Congressional Record is prescribed by the Joint Committee on Printing pursuant to 44 U.S.C. 901. The rules of the Joint Committee on Printing governing publication of the Congressional Record are as follows:

CODE OF LAWS OF THE UNITED STATES

TITLE 44, SECTION 901. CONGRESSIONAL RECORD: ARRANGEMENT, STYLE, CONTENTS, AND INDEXES

The Joint Committee on Printing shall control the arrangement and style of the Congressional Record, and while providing that it shall be substantially a verbatim report of proceedings, shall take all needed action for the reduction of unnecessary bulk. It shall provide for the publication of an index of the Congressional Record semimonthly during and at the close of sessions of Congress. (Oct. 22, 1968, c. 9, 82 Stat. 1255.)

TITLE 44, SECTION 904. CONGRESSIONAL RECORD: MAPS; DIAGRAMS; ILLUSTRATIONS

Maps, diagrams, or illustrations may not be inserted in the Record without the approval of the Joint Committee on Printing (Oct. 22, 1968, c. 9, 82 Stat. 1256.; V, 7024; VIII, 3500).

§ 924. Rules relating to Congressional Record.

To provide for the prompt publication and delivery of the Congressional Record the Joint Committee on Printing has adopted the following rules, to which the attention of Senators, Representatives, and Delegates is respectfully invited:

1. *Arrangement of the daily Congressional Record.*—The Public Printer shall arrange the contents of the daily Congressional Record as follows: The Senate proceedings shall alternate with the House proceedings in order of placement in consecutive issues insofar as such an arrangement is feasible, and Extensions of Remarks and Daily Digest shall follow: *Provided,* That the makeup of the Congressional Record shall proceed without regard to alternation whenever the Public Printer deems it necessary in order to meet production and delivery schedules.

2. *Type and style.*—The Public Printer shall print the report of the proceedings and debates of the Senate and House of Representatives, as furnished by the official reporters of the Congressional Record, in 8-point type; and all matter included in the remarks or speeches of Members of Congress, other than their own words, and all reports, documents, and other matter authorized to be inserted in the Congressional Record shall be printed in 7-point type; and all rollcalls shall be printed in 6-point type. No italic or black type nor words in capitals or small capitals shall be used for emphasis or prominence; nor will unusual indentions be permitted. These restrictions do not apply to the printing of or quotations from historical, official, or legal documents or papers of which a literal reproduction is necessary.

3. Only as an aid in distinguishing the manner of delivery in order to contribute to the historical accuracy of the Record, statements or insertions in the Record where no part of them was spoken will be preceded and followed by a "bullet" symbol, i.e., ●. (Now applicable only in Senate.)

4. *Return of manuscript.*—When manuscript is submitted to Members for revision it should be returned to the Government Printing Office not later than 9 o'clock p.m. in order to insure publication in the Congressional Record issued on the following morning; and if all of the manuscript is not furnished at the time specified, the Public Printer is authorized to withhold it from the Congressional Record for 1 day. In no case will a speech be printed in the Congressional Record of the day of its delivery if the manuscript is furnished later than 12 o'clock midnight.

5. *Tabular matter.*—The manuscript of speeches containing tabular statements to be published in the Congressional Record shall be in the

hands of the Public Printer not later than 7 o'clock p.m. to insure publication the following morning. When possible, manuscript copy for tabular matter should be sent to the Government Printing Office 2 or more days in advance of the date of publication in the Congressional Record. Proof will be furnished promptly to the Member of Congress to be submitted by him instead of manuscript copy when he offers it for publication in the Congressional Record.

6. *Proof furnished.*—Proofs or "leave to print" and advance speeches will not be furnished the day the manuscript is received but will be submitted the following day, whenever possible to do so without causing delay in the publication of the regular proceedings of Congress. Advance speeches shall be set in the Congressional Record style of type, and not more than six sets of proofs may be furnished to Members without charge.

7. *Notation of withheld remarks.*—If manuscript or proofs have not been returned in time for publication in the proceedings, the Public Printer will insert the words "Mr. —— addressed the Senate (House or Committee). His remarks will appear hereafter in Extensions of Remarks" and proceed with the printing of the Congressional Record.

8. *Thirty-day limit.*—The Public Printer shall not publish in the Congressional Record any speech or extension of remarks which has been withheld for a period exceeding 30 calendar days from the date when its printing was authorized: *Provided,* That at the expiration of each session of Congress the time limit herein fixed shall be 10 days, unless otherwise ordered by the committee.

9. *Corrections.*—The permanent Congressional Record is made up for printing and binding 30 days after each daily publication is issued; therefore all corrections must be sent to the Public Printer within that time: *Provided,* That upon the final adjournment of each session of Congress the time limit shall be 10 days, unless otherwise ordered by the committee: *Provided further,* That no Member of Congress shall be entitled to make more than one revision. Any revision shall consist only of corrections of the original copy and shall not include deletions of correct material, substitutions for correct material, or additions of new subject matter.

10. The Public Printer shall not publish in the Congressional Record the full report or print of any committee or subcommittee when the report or print has been previously printed. This rule shall not be construed to apply to conference reports. However, inasmuch as House of Representatives Rule XXVIII, Section 912, provides that conference reports be printed in the daily edition of the Congressional Record, they shall not be printed therein a second time.

11. *Makeup of the Extensions of Remarks.*—Extensions of Remarks in the Congressional Record shall be made up by successively taking first an extension from the copy submitted by the official reporters of one House and then an extension from the copy of the other House, so that

Senate and House extensions appear alternately as far as possible. The sequence for each House shall follow as closely as possible the order or arrangement in which the copy comes from the official reporters of the respective Houses.

The official reporters of each House shall designate and distinctly mark the lead item among their extensions. When both Houses are in session and submit extensions, the lead item shall be changed from one House to the other in alternate issues, with the indicated lead item of the other House appearing in second place. When only one House is in session, the lead item shall be an extension submitted by a Member of the House in session. This rule shall not apply to Congressional Records printed after the sine die adjournment of the Congress.

12. *Official reporters.*—The official reporters of each House shall indicate on the manuscript and prepare headings for all matter to be printed in Extensions of Remarks and shall make suitable reference thereto at the proper place in the proceedings.

13. *Two-page rule—Cost estimate from Public Printer.*—(1) No extraneous matter in excess of two printed Record pages, whether printed in its entirety in one daily issue or in two or more parts in one or more issues, shall be printed in the Congressional Record unless the Member announces, coincident with the request for leave to print or extend, the estimate in writing from the Public Printer of the probable cost of publishing the same. (2) No extraneous matter shall be printed in the House proceedings or the Senate proceedings, with the following exceptions: (*a*) Excerpts from letters, telegrams, or articles presented in connection with a speech delivered in the course of debate; (*b*) communications from State legislatures; (*c*) addresses or articles by the President and the Members of his Cabinet, the Vice President, or a Member of Congress. (3) The official reporters of the House or Senate or the Public Printer shall return to the Member of the respective House any matter submitted for the Congressional Record which is in contravention of these provisions.

HOUSE SUPPLEMENT TO "LAWS AND RULES FOR PUBLICATION OF THE CONGRESSIONAL RECORD"—EFFECTIVE SEPTEMBER 4, 1985

1. *Extensions of Remarks in the daily Congressional Record.*—When the House has granted leave to print (1) a newspaper or magazine article, or (2) any other matter not germane to the proceedings, it shall be published under Extensions of Remarks. This rule shall not apply to quotations which form part of a speech of a Member, or to an authorized extension of his own remarks: *Provided,* That no address, speech, or article delivered or released subsequently to the sine die adjournment of a session of Congress may be printed in the Congressional Record. One-minute speeches delivered during the morning business of Congress shall not exceed 300 words. Statements exceeding this will be printed following the business of the day.

2. Any extraneous matter included in any statement by a Member, either under the 1-minute rule or permission granted to extend at this point, will be printed in the "Extensions of Remarks" section, and that such material will be duly noted in the Member's statement as appearing therein.

3. Under the general leave request by the floor manager of specific legislation only matter pertaining to such legislation will be included as per the request. This, of course, will include tables and charts pertinent to the same, but not newspaper clippings and editorials.

4. In the makeup of the portion of the Record entitled "Extensions of Remarks," the Public Printer shall withhold any Extensions of Remarks which exceed economical press fill or exceed production limitations. Extensions withheld for such reasons will be printed in succeeding issues, at the direction of the Public Printer, so that more uniform daily issues may be the end result and, in this way, when both Houses have a short session the makeup would be in a sense made easier so as to comply with daily proceedings, which might run extremely heavy at times.

5. The request for a Member to extend his or her remarks in the body of the Record must be granted to the individual whose remarks are to be inserted.

6. All statements for "Extensions of Remarks," as well as copy for the body of the Congressional Record must be submitted on the Floor of the House to the Official Reporters of Debates and must carry the *actual* signature of the Member. Extensions of Remarks will be accepted up to 15 minutes after adjournment of the House. To insure printing in that day's proceedings, debate transcripts still out for revision must be returned to the Office of Official Reporters of Debates, Room HT-60, the Capitol, (1) by 5 p.m., or 2 hours following adjournment, whichever occurs later; or (2) within 30 minutes following adjournment when the House adjourns at 11 p.m., or later.

7. The Congressional Record shall contain a substantially verbatim account of remarks actually made during proceedings of the House, subject to technical grammatical, and typographical corrections authorized by the Member making the remarks involved. The substantially verbatim account shall be clearly distinguishable, by different typeface, from material inserted under permission to extend remarks. (The Speaker has instructed the Official Reporters of Debates to adhere strictly to this requirement (Mar. 2, 1988, p. ——).)

The Record is for the proceedings of the House and Senate only, and matters not connected therewith are rigidly excluded (V, 6962). It is not, however, the official record, that function being fulfilled by the Journal (IV, 2727). As a general principle the Speaker has no control over the Record (V, 6984, 7017), but words spoken by a Member after he has been called to order may be excluded by direction of the Speaker (V, 6975–6978; VIII, 3466, 3471). But the House, and not the Speaker, determines what liberty shall be allowed to a Member who has leave to extend his remarks (V, 6997-7000; VIII, 3475), whether or not a copyrighted article shall be printed therein (V, 6985), as to an alleged abuse of the leave to print (V, 7012; VIII, 3474), or as to a proposed amendment (V, 6983).

§925. Relations of the Committee of the Whole to the Congressional Record.

As a general rule the Committee of the Whole has no control over the Congressional Record (V, 6986); but the Chairman in the preservation of order, may direct the exclusion of disorderly words spoken by a Member after he has been called to order (V, 6987). In a case wherein the committee conceived that a letter read in committee involved a breach of privilege, it reported the matter to the House for action, and the House struck the letter from the Record (V, 6986). The Chairman of the Committee of the Whole does not determine the privileges of a Member under a general leave to print in the record, that being for the House alone (V, 6988). Neither may the Committee of the Whole grant a general leave to print, although for convenience it does permit individual Members to extend their remarks (V, 7009, 7010; VIII, 3488-3490; Aug. 31, 1965, p. 22385), nor may the Committee of the Whole permit the inclusion of extraneous material (January 23, 1936, p. 950; Feb. 1, 1937, p. 656-7; Sept. 19, 1967, p. 26032).

§926. Correction of the Congressional Record.

While the House controls the Congressional Record, the Speaker with the assent of the House laid down the principle that words spoken by a Member in order might not be changed by the House, as this would be determining what a Member should utter on the floor (V, 6974; VI, 583; VIII, 3469, 3498). Neither should one House strike out matter placed in the Record by permission of the other House (V, 6966). But the House may correct the speech of one of its Members so that it may record faithfully what he actually said (V, 6972). Where a Member had uttered disorderly words on the floor without objection, the House yet decided that it was not precluded from action when the words, after being withheld for revision, appeared in the Record, and struck them out (V, 6979, 6981; VI, 582; VIII, 2538, 3463, 3472).

The House has also ordered stricken from the Record printed speeches condemned as unparliamentary for reflections on Members, committees of the House, the House itself (V, 7017), and the Senate (V, 5129). It is improper for a Member to have published in the Record the individual votes of Members on a question of which the yeas and nays have not been entered on the Journal (V, 6982). A correction of the Record which involves a motion and a vote is recorded in the Journal (IV, 2877). Propositions to make corrections are sometimes considered by the Committee on House Administration. In debating a resolution to strike from the Record disorderly language a Member may not read the language (V, 7004); but it was held that as part of a personal explanation relating to matter excluded as out of order a Member might read the matter, subject to a point of order if the reading should develop anything in violation of the rules of debate (V, 5079). It has also been held that a Member may not, in a controversy over a proposed correction of the Record as to a matter of business, demand as a matter of right the reading of the reporter's notes (V, 6967; VIII, 3460). The Speaker declines to entertain unanimous consent requests to correct the Record on a vote taken by electronic device, based upon the presumed accuracy of the electronic system and the ability and responsibility of each Member to verify his vote (Feb. 6, 1973, p. 3558; Apr. 18, 1973, p. 13081; Dec. 3, 1974, p. 37897).

§ 927. Privileges of propositions to correct the Congressional Record.

A motion or resolution for the correction of the Congressional Record which involves a question of privilege may be made properly after the reading and approval of the Journal (V, 7013; VIII, 3496), and is not in order pending the approval of the Journal (V, 6989), but is privileged after that (V, 7014–7019; VIII, 3461, 3463).

A question of privilege as to an alleged error in the Record may not be raised until the Record has appeared (V, 7020), and a resolution to omit from the manuscript copy certain remarks declared out of order is not privileged (V, 7021). Offensive words having been stricken from the Record, a question of privilege may not arise therefrom (V, 7023; VI, 596). Privileged motions to correct the Congressional Record involve cases where the integrity of House proceedings is in question, such as where unparliamentary words have been spoken in debate or inserted in the Record (Deschler's Precedents ch. 5, § 17), where the remarks of one Member have been attributed to another (Ibid, ch. 5. §§ 18.1, 18.2), or where a Member has improperly altered his remarks during an exchange of colloquoy with another Member (Ibid. ch. 5, § 18.9). Mere typographical errors in the Congressional Record or ordinary revisions of a Member's remarks do not give rise to privileged motions for the correction of the Record (Apr. 25, 1985, p. 9419), since such changes for the permanent edition of the Record may be made without the permission of the House (Deschler's Precedents ch. 5, § 19) and the House does not change the Record merely to show what a Member should have said during debate (Ibid. ch. 5, § 18).

A motion to correct the Record has been entertained to allow a Member to print in subsequent edition of the daily Record the correct text of an amendment which he had offered on a previous day and which had been substantially misprinted in the daily Record for the day on which it was offered (Deschler's Precedents ch. 5, § 18.6).

§ 928. Privilege of Member to revise his remarks in the Congressional Record.

It has been the practice to allow a Member, with the approval of the House, to revise his remarks before publication in the Congressional Record (V, 6971); but he should not change the notes of his own speech in such a way as to affect the remarks of an opponent in controversy without bringing the correction to the attention of that Member (V, 6972; VIII, 3461). Where the remarks of another are not affected, a Member in revising a speech for the Record may strike out any portion or may omit the speech in its entirety (VIII, 3468) but alterations which place a different aspect on the remarks of a colleague require authorization by the House (VIII, 3463, 3497). A Member is not entitled to inspect the Reporter's notes of remarks which do not contain reflections on himself, delivered by another Member and withheld for revision (V, 6964). Where a Member so revised his remarks as to affect the import of words uttered by another Member, the House corrected the Record (V, 6973). The Joint Committee on Printing prescribes the conditions under which Members may revise their remarks (V, 7024; VIII, 3500).

§ 929. "Leave to print" in the Congressional Record.

The practice of inserting in the Congressional Record speeches not actually delivered on the floor has grown up by consent of the House as the membership has increased and it has become difficult at times for every Member to express at length on the floor his reasons for his attitude on public questions (V, 6990–6996, 6998–7000). The House quite generally stipulates, in granting leave to print, that it shall be exercised without unreasonable freedom (V, 7002, 7003). General leave to print may be granted only by the House, although in Committee of the Whole a Member, by unanimous consent, may be given leave to extend his remarks (V, 7009, 7010; VIII, 3488–3490). When a Member under leave to print places in the Record that which would not have been in order if uttered on the floor, the House may exclude the speech in whole or in part (V, 7005–7008; VIII, 3495). Thus, where a Member, under leave to print, made charges against another Member, the House ordered the speech stricken out (V, 7004). The principle that a Member shall not be called to order for words spoken in debate if business has intervened does not apply to a case where leave to print has been violated (V, 7005). Where a Member gets leave to insert one matter he may not print another (V, 7001; VIII, 3462, 3479, 3480). Leave to extend remarks does not permit a Member to insert in the Record statements and letters of others unless the leave granted specifies such matter (VIII, 3475, 3481) whether the extension be under general leave for all Members or individually. In Committee of the Whole leave for an extension of remarks should not be granted except in connection with remarks actually delivered and, if under the five-minute rule, relevant to the bill; and the extension under such circumstances should be brief (Speaker Longworth, Mar. 18, 1926, p. 5854). Neither the House nor the Committee of the Whole permit the insertion of an entire colloquy between two or more Members not actually delivered (Aug. 10, 1982, pp. 20266, 20267; Oct. 3, 1985, p. 26028). The Chairman of the Committee of the Whole has declined to entertain a request for an extension of remarks actually delivered under the five-minute rule but not relevant to the bill under consideration (Chairman Lehlbach, Mar. 18, 1926, p. 5861). Where a Member abused a leave to print on the last day of the session, the House at the next session condemned the abuse and declared the matter not a legitimate part of the official debates (V, 7017). An abuse of the leave to print gives rise to a question of privilege (V, 7005-7008, 7011; VIII, 3163, 3491, 3495), and a resolution or motion to expunge from the Record in such a case is offered as a question of privilege (V, 7012; VIII, 3475, 3491). An inquiry by the House as to an alleged abuse of the leave to print does not necessarily entitle the Member implicated to the floor on a question of privilege (V, 7012).

A motion that a Member be permitted to extend his remarks in the Record is not privileged (Feb. 8, 1950, p. 1661), and under the rules of the Joint Committee on Printing, one Member cannot obtain permission for other individual Members to extend their remarks.

Where extraneous material proposed to be inserted in the body or in the Extension of Remarks portion of the Record exceeds two Record pages, the rules of the Joint Committee on Printing require that the Member state an estimate of printing cost when permission is requested to make the insertion (February 12, 1962, p. 2207; May 24, 1972, p. 18653). The Joint Committee on Printing amended the rules for publication of the Record, effective March 1, 1978, to require the identification in the Record by "bullet" symbols of statements or insertions no part of which were actually delivered in debate (Feb. 20, 1978, p. 3676). Where the House permitted all members leave to revise and extend their remarks on a certain subject, those Members who actually spoke during the debate could revise their remarks to appear as if actually delivered, but Members' statements no part of which were spoken were preceded and followed by a "bullet" symbol (Nov. 15, 1983, p. ——). Then in the 99th Congress, the House adopted a resolution requesting the Joint Committee on Printing to adopt temporary rules to require distinctive type styles rather than bulleting of remarks not actually spoken in debate (H. Res. 230, July 31, 1985, p. 21783), and also adopted a resolution requesting that those rules be made permanent (H. Res. 514, Aug. 12, 1986, p. ——). Under regulations of the Joint Committee on Printing, remarks delivered or inserted under leave to revise and extend in connection with a "one-minute speech" made before legislative business are printed after legislative business if exceeding 300 words (Speaker O'Neill, Apr. 5, 1978, p. 8846). See § 924, supra.

Based upon several unauthorized insertions of extensions of remarks in the Record, the Speaker announced that henceforth all extensions of remarks must be signed by the Member submitting them (Aug. 15, 1974, p. 28385).

§ 930a. Unofficial reporters in the press gallery and on the floor.

2. Such portion of the gallery over the Speaker's chair as may be necessary to accommodate representatives of the press wishing to report debates

and proceedings shall be set aside for their use, and reputable reporters and correspondents shall be admitted thereto under such regulations as the Speaker may from time to time prescribe; and the supervision of such gallery, including the designation of its employees, shall be vested in the standing committee of correspondents, subject to the direction and control of the Speaker; and the Speaker may assign one seat on the floor to Associated Press reporters and one to United Press International, and regulate the occupation of the same. And the Speaker may admit to the floor, under such regulations as he may prescribe, one additional representative of each press association.

This clause was first adopted in 1857, and has been amended from time to time as the occasion demanded (V, 7304; VIII, 3642). It was again amended January 3, 1953, p. 24 and most recently on January 22, 1971, p. 144. See also *Consumers Union* v. *Periodical Correspondents' Association*, 515 F.2d 1341 (D.C. Cir. 1975), *cert. den.* 423 U.S. 1051 (1976) (action in enforcing correspondents' association regulations is within legislative immunity granted by the Speech or Debate Clause).

§ 930b. Unofficial reporters in the radio gallery and on the floor.

3. Such portion of the gallery of the House of Representatives as may be necessary to accommodate reporters of news to be disseminated by radio, television, and similar means of transmission, wishing to report debates and proceedings, shall be set aside for their use, and reputable reporters thus engaged shall be admitted thereto under such regulations as the Speaker may from time to time prescribe; and the supervision of such gallery, including the designation of its employees, shall be vested in the Executive Com-

mittee of the Radio and Television Correspondents' Galleries, subject to the direction and control of the Speaker; and the Speaker may admit to the floor, under such regulations as he may prescribe, one representative of the National Broadcasting Company, one of the Columbia Broadcasting System, one of the Mutual Broadcasting System, and one of the American Broadcasting Company.

This clause was adopted on April 20, 1939, p. 4561, and was amended on May 30, 1940, p. 7208 and on January 22, 1971, p. 144.

RULE XXXV.

PAY OF WITNESSES.

§ 931. Fees of witnesses before the House or committees.

The rule for paying witnesses to appear before the House or any of its committees shall be as follows: For each day a witness shall attend, the same per diem rate as established, authorized, and regulated by the Committee on House Administration for Members and employees of the House, and actual expenses of travel in coming to or going from the place of examination; but no per diem shall be paid when a witness has been summoned at the place of examination.

This rule was adopted in 1872, with amendments in 1880 (III, 1825), 1930 (VI, 393), April 19, 1955, p. 4722, August 12, 1969, p. 23355 (H. Res. 495, 91st Cong.), and July 28, 1975, p. 25258 (H. Res. 517, 94th Cong.). The last amendment eliminated the specific per diem and travel rate of reimbursement and allowed actual travel costs and per diem for witnesses requested or subpenaed to appear at the same rate as established by the Committee on House Administration for Members and employees. For further provisions relating to witnesses, see clauses 2(j) and (k), Rule XI (§§ 711 and 712, supra).

RULE XXXVI.

PRESERVATION AND AVAILABILITY OF NONCURRENT RECORDS OF THE HOUSE.

§ 932. Duties of clerk and committees as to custody of papers before committees.

1. (a) At the end of each Congress, the chairman of each committee of the House shall transfer to the Clerk any noncurrent records of such committee, including the subcommittees thereof.

(b) At the end of each Congress, each officer of the House elected pursuant to rule II shall transfer to the Clerk any noncurrent records made or acquired in the course of the duties of such officer.

2. The Clerk shall deliver the records transferred pursuant to clause 1 of the rule, together with any other noncurrent records of the House, to the Archivist of the United States for preservation at the National Archives and Records Administration. Records so delivered are the permanent property of the House and remain subject to this rule and the orders of the House.

3. (a) Subject to paragraph (b) of the clause, clause 4 of this rule, and orders of the House, the Clerk shall authorize the Archivist of the United States to make available for public use the records delivered to the Archivist under clause 2 of this rule.

(b)(1) Any record that the House or a committee of the House (or a subcommitte thereof) makes available for public use before such record is delivered to the Archivist under clause

2 of this rule shall be made available immediately.

(2) Any investigative record that contains personal data relating to a specific living individual (the disclosure of which would be an unwarranted invasion of personal privacy), any administrative record with respect to personnel, and any record with respect to a hearing closed pursuant to clause 2(g)(2) of rule XI shall be available if such record has been in existence for 50 years.

(3) Any record for which a time, schedule, or condition for availability is specified by order of the House shall be made available in accordance with that order. Except as otherwise provided by order of the House, any record of a committee for which a time, schedule, or condition for availability is specified by order of the committee (entered during the Congress in which the record is made or acquired by the committee) shall be made available in accordance with the order of the committee.

(4) Any record (other than a record referred to in subparagraph (1), (2), or (3) of this paragraph) shall be made available if such record has been in existence for 30 years.

4. (a) A record shall not be made available for public use under clause 3 of this rule if the Clerk determines that such availability would be detrimental to the public interest or inconsistent with the rights and privileges of the House. The Clerk shall notify in writing the chairman and the ranking minority party Member of the Com-

mittee on House Administration of any determination under the preceding sentence.

(b) A determination of the Clerk under paragraph (a) is subject to later order of the House and, in the case of a record of a committee, later order of the committee.

5. (a) This rule does not supersede rule XLVIII or rule L and does not authorize the public disclosure of any record if such disclosure is prohibited by law or executive order of the President.

(b) The Committee on House Administration may prescribe guidelines and regulations governing the applicability and implementation of this rule.

(c) A committee may withdraw from the National Archives and Records Administration any record of the committee delivered to the Archivist of the United States under this rule. Such withdrawal shall be on a temporary basis and for official use of the committee.

6. As used in the rule the term "record" means any official, permanent record of the House, including—

(a) with respect to a committee of the House, an official, permanent record of the committee (including any record of a legislative, oversight, or other activity of such committee or subcommittee thereof); and

(b) with respect to an officer of the House elected pursuant to rule II, an official, permanent record made or acquired in the course of the duties of such officer. Such term does not include a record of an individual Member of the House.

The predecessor to this provision was adopted in 1880 (V, 7260). The rule was renumbered in the 83rd Congress (H. Res. 5, Jan. 3, 1953, p. 24), and was rewritten entirely in the 101st Congress (H. Res. 5, Jan. 3, 1989, p. ——) to incorporate the provisions of H. Res. 419 as reported from the Committee on Rules in the 100th Congress (H. Rpt. 100-1054).

Clause 2 of the former provision stemmed from Sec. 140(a) of the Legislative Reorganization Act of 1946 (60 Stat. 812) and was made a part of the standing rules January 3, 1953, p. 24, and amended January 22, 1971, p. 144. The Clerk of the House has been authorized to permit the Administrator of General Services to make available for use certain records of the House transferred to the National Archives (H. Res. 288, June 16, 1953, p. 6641). It was amended in the 99th Congress to change the reference from the General Services Administration of the National Archives and Records Administration (H. Res. 114, Oct. 14, 1986, p. ——).

RULE XXXVII.

WITHDRAWAL OF PAPERS.

§933. Custody of papers in the files of the House.

No memorial or other paper presented to the House shall be withdrawn from its files without its leave, and if withdrawn therefrom certified copies thereof shall be left in the office of the Clerk; but when an act may pass for the settlement of a claim, the Clerk is authorized to transmit to the officer in charge with the settlement thereof the papers on file in his office relating to such claim, or may loan temporarily to an officer or bureau of the executive departments any papers on file in his office relating to any matter pending before such officer or bureau, taking proper receipt therefor.

This rule was adopted in 1873 and amended in 1880 (V, 7256). It was renumbered January 3, 1953, p. 24.

The House usually allows the withdrawal of papers only in cases where there has been no adverse report. As the rules for the order of business give no place to the motion to withdraw, it is made by unanimous consent (V, 7259). The House formerly adopted a privileged resolution at the beginning of each Congress authorizing the Clerk to furnish certified copies of certain types of House papers subpenaed by courts upon determination of relevancy by the court, but not permitting production of executive session papers or transfer of original papers (Jan. 3, 1973, pp. 30-31).

See Rule L, *infra* for current procedure for response to subpenas for papers of the House.

RULE XXXVIII.

BALLOT.

§934. Elections by ballot.

In all cases of ballot a majority of the votes given shall be necessary to an election, and where there shall not be such a majority on the first ballot the ballots shall be repeated until a majority be obtained; and in all balloting blanks shall be rejected and not taken into the count in enumeration of votes or reported by the tellers.

This rule was first adopted in 1789 and was amended in 1837 (V, 6003). It was renumbered January 3, 1953, p. 24. The last election by ballot seems to have occurred in 1868 (V, 6003).

RULE XXXIX.

MESSAGES.

§935. Entry of messages in the Journal and Record.

Messages received from the Senate and the President of the United States, giving notice of bills passed or approved, shall be entered in the Journal and published in the Record of that day's proceedings.

This rule was adopted in 1867 and amended in 1880 (V, 6593). It was renumbered January 3, 1953, p. 24.

The House may receive a message from the Senate when the Senate is not in session (VIII, 3338).

RULE XL.

EXECUTIVE COMMUNICATIONS.

§936. Reception and reference of executive communications, including estimates.

Estimates of appropriations and all other communications from the executive departments, intended for the consideration of any committees of the House, shall be addressed to the Speaker, and by him referred as provided by clause 2 of Rule XXIV.

This rule was adopted in 1867 and amended in 1880 (V, 6593). It was renumbered January 3, 1953, p. 24.

Formerly estimates of appropriations were transmitted through the Secretary of the Treasury (IV, 3573–3576, 4045), but under the Budget Act they are transmitted by the President.

RULE XLI.

QUALIFICATIONS OF OFFICERS AND EMPLOYEES.

§937. Officers and employees not to be agents of claims.

No person shall be an officer of the House, or continue in its employment, who shall be an agent for the prosecution of any claim against the Government, or be interested in such claim otherwise than as an original claimant; and it shall be the duty of the Committee on House Administration to inquire into and report to the House any violation of this rule.

This rule was adopted in 1842 (V, 7227). It was renumbered January 3, 1953, p. 24.

RULE XLII.

GENERAL PROVISIONS.

§ 938. Relations of Jefferson's Manual and Legislative Reorganization Act of 1946 to the rules of the House.

The rules of parliamentary practice comprised in Jefferson's Manual and the provisions of the Legislative Reorganization Act of 1946, as amended, shall govern the House in all cases to which they are applicable, and in which they are not inconsistent with the standing rules and orders of the House and joint rules of the Senate and House of Representatives.

This rule was adopted in 1837 (V, 6757), and amended January 3, 1953, p. 24, when it was also renumbered. Joint rules have not been in force since the Forty-third Congress. Discussion of the importance of Jefferson's Manual as an authority in congressional procedure (VII, 1029, 1049; VIII, 2501, 2517, 2518, 3330).

RULE XLIII.

CODE OF OFFICIAL CONDUCT.

There is hereby established by and for the House of Representatives the following code of conduct, to be known as the "Code of Official Conduct":

§ 939. Official conduct of Members, officers, or employees of the House.

1. A Member, officer, or employee of the House of Representatives shall conduct himself at all times in a manner which shall reflect creditably on the House of Representatives.

2. A Member, officer, or employee of the House of Representatives shall adhere to the spirit and the letter of the Rules of the House of

Representatives and to the rules of duly constituted committees thereof.

3. A Member, officer, or employee of the House of Representatives shall receive no compensation nor shall he permit any compensation to accrue to his beneficial interest from any source, the receipt of which would occur by virtue of influence improperly exerted from his position in the Congress.

4. A Member, officer, or employee of the House of Representatives shall not accept gifts (other than personal hospitality of an individual or with a fair market value of $50 or less) in any calendar year aggregating $100 or more in value, directly or indirectly, from any person (other than from a relative of his) having a direct interest in legislation before the Congress or who is a foreign national (or agent of a foreign national). Any person registered under the Federal Regulation of Lobbying Act of 1946 (or any successor statute), any officer or director of such registered person, and any person retained by such registered person for the purpose of influencing legislation before the Congress shall be deemed to have a direct interest in legislation before the Congress.

5. A Member, officer, or employee of the House of Representatives shall accept no honorarium for a speech, writing for publication, or other similar activity, from any person, organization, or corporation in excess of the usual and customary value for such services.

6. A Member of the House of Representatives shall keep his campaign funds separate from his personal funds. He shall convert no campaign funds to personal use in excess of reimbursement for legitimate and verifiable prior campaign expenditures and he shall expend no funds from his campaign account not attributable to bona fide campaign purposes.

7. A Member of the House of Representatives shall treat as campaign contributions all proceeds from testimonial dinners or other fund raising events.

8. A Member of the House of Representatives shall retain no one from his clerk hire allowance who does not perform duties commensurate with the compensation he receives.

9. A Member, officer or employee of the House of Representatives shall not discharge or refuse to hire any individual, or otherwise discriminate against any individual with respect to compensation, terms, conditions, or privileges of employment, because of such individual's race, color, religion, sex, age, or national origin.

10. A Member of the House of Representatives who has been convicted by a court of record for the commission of a crime for which a sentence of two or more years' imprisonment may be imposed should refrain from participation in the business of each committee of which he is a member and should refrain from voting on any question at a meeting of the House, or of the Committee of the Whole House, unless or until judicial or executive proceedings result in rein-

statement of the presumption of his innocence or until he is reelected to the House after the date of such conviction.

11. A Member of the House of Representatives shall not authorize or otherwise allow a non-House individual, group, or organization to use the words "Congress of the United States", "House of Representatives", or "Official Business", or any combination of words thereof, on any letterhead or envelope.

As used in this Code of Official Conduct of the House of Representatives—(a) the terms "Member" and "Member of the House of Representatives" include the Resident Commissioner from Puerto Rico and each Delegate to the House; and (b) the term "officer or employee of the House of Representatives" means any individual whose compensation is disbursed by the Clerk of the House of Representatives.

For the purposes of clause 4 of this Code of Official Conduct—

(1) The term "relative" means, with respect to any Member, officer, or employee of the House of Representatives, and individual who is related as father, mother, son, daughter, brother, sister, uncle, aunt, first cousin, nephew, niece, husband, wife, grandfather, grandmother, grandson, granddaughter, father-in-law, mother-in-law, son-in-law, daughter-in-law, brother-in-law, sister-in-law, stepfather, stepmother, stepson, stepdaughter, stepbrother, stepsister, half brother, half sister, or who is the grandfather or

grandmother of the spouse of the person reporting.

(2) The term "foreign national" means an individual who is not a citizen of the United States and who is not lawfully admitted for permanent residence.

This rule was adopted on April 3, 1968 (H. Res. 1099, 90th Cong.). The jurisdiction of the Committee on Standards of Official Conduct was also redefined by this resolution. The rule was amended in the 92d Congress to bring the Delegates from the District of Columbia, Guam and the Virgin Islands within the definition of "Member" (H. Res. 5, Jan. 22, 1971, p. 144; H. Res. 1153, Oct. 13, 1972, pp. 36021–23). The rule was further amended in the 94th Congress by adding clause (9) (H. Res. 5, Jan. 14, 1975, p. 20). Clause (10) was adopted by the House on April 16, 1975 (H. Res. 46, 94th Cong., p. 10340). Clause (4) was amended in the 95th Congress to change the prohibition against acceptance of gifts of "substantial value", clause (6) was amended to delete the exception "Unless specifically provided by law" from the second sentence, which exception had been added in the 94th Congress (H. Res. 5, Jan. 4, 1975, p. 20), clause (7) was amended to eliminate an exception permitting sponsors to give notice of purpose, and the definitions for clause (4) were all added by the House on March 2, 1977 (H. Res. 287, 95th Cong., pp. 5933–53). Clause 11 was adopted by the House in the 96th Congress (H. Res. 5, Jan. 15, 1979, pp. 7–16). Clause (4) was further amended in the 100th Congress to increase from $35 to $50 the value of personal hospitality of an individual which is not to be counted when computing the aggregate of $100 of gifts per calendar year, and clause (9) was amended in the 100th Congress to prohibit discrimination in employment based upon age (H. Res. 5, Jan. 6, 1987, p. ——).

In the 95th Congress, advisory opinions promulgated by the Select Committee on Ethics interpreting this rule were inserted in the Record (Apr. 21, 1977, pp. 11617–9; May 18, 1977, p. 15449). It is not a proper parliamentary inquiry to ask the Chair to interpret the application of a criminal statute to a Member's conduct, as it is for the House and not the Chair to judge the conduct of Members (Nov. 17, 1987, p.——).

In the 100th Congress, the House adopted a resolution reiterating the prohibition in clause 9 against discrimination in employment practices and establishing grievance procedures for consideration of alleged violations. Such procedures include (1) counseling and mediation; (2) formal complaint, hearing, and review by the Office of Fair Employment Practices established in the resolution; and (3) final review by a Review Panel established in the resolution (H. Res. 558, Oct. 3, 1988, p. ——). The provisions of the original resolution, set forth below, were renewed in the 101st Congress (H. Res. 15, Jan. 3, 1989, p. ——).

HOUSE RESOLUTION 558, 100TH CONGRESS

SECTION 1. SHORT TITLE.

This resolution may be cited as the "Fair Employment Practices Resolution".

SEC. 2. NONDISCRIMINATION IN HOUSE OF REPRESENTATIVES EMPLOYMENT.

(a) In General.—Personnel actions affecting employment positions in the House of Representatives shall be made free from discrimination based on race, color, national origin, religion, sex (including marital or parental status), handicap, or age.

(b) Interpretations.—Interpretations under subsection (a) shall reflect the principles of current law, as generally applicable to employment.

(c) Construction.—Subsection (a) does not prohibit the taking into consideration of—

(1) the domicile of an individual with respect to a position under the clerk-hire allowance; or

(2) the political affiliation of an individual with respect to a position under the clerk-hire allowance or a position on the staff of a committee.

SEC. 3. PROCEDURE FOR CONSIDERATION OF ALLEGED VIOLATIONS.

The procedure for consideration of alleged violations of section 2 consists of 3 steps as follows:

(1) Step I, Counseling and Mediation, as set forth in section 5.

(2) Step II, Formal Complaint, Hearing, and Review by the Office of Fair Employment Practices, as set forth in section 6.

(3) Step III, Final Review by Review Panel, as set forth in section 7.

SEC. 4. ESTABLISHMENT OF OFFICE OF FAIR EMPLOYMENT PRACTICES.

There is established an Office of Fair Employment Practices (hereafter in this resolution referred to as the "Office"), which shall carry out functions assigned under this resolution. Employees of the Office shall be appointed by, and serve at the pleasure of, the Chairman and the ranking minority party member of the Committee on House Administration, acting jointly, and shall be under the administrative direction of the Clerk of the House of Representatives. The Office shall be located in the District of Columbia and shall begin operation not more than 90 days after the date on which this resolution is agreed to.

SEC. 5. STEP I: COUNSELING AND MEDIATION.

(a) COUNSELING.—An individual aggrieved by an alleged violation of section 2 may request counseling by counselors in the Office, who shall provide information with respect to rights and related matters under that section. A request for counseling shall be made not later than 180 days after the alleged violation and may be oral or written, at the option of the individual. The period for counseling is 30 days. The Office may not notify the employing authority of the counseling before the beginning of mediation or the filing of a formal complaint, whichever occurs first.

(b) MEDIATION.—If, after counseling, the individual desires to proceed, the Office shall attempt to resolve the alleged violation through mediation between the individual and the employing authority.

SEC. 6. STEP II: FORMAL COMPLAINT, HEARING, AND REVIEW BY THE OFFICE OF FAIR EMPLOYMENT PRACTICES.

(a) FORMAL COMPLAINT AND REQUEST FOR HEARING.—Not later than 15 days after the end of the counseling period, the individual may file a formal complaint with the Office. Not later than 10 days after filing the formal complaint, the individual may file with the Office a written request for a hearing on the complaint.

(b) HEARING.—The hearing shall be conducted—

(1) not later than 10 days after filing of the written request under subsection (a), except that the Office may authorize a delay of not more than 30 days for investigation;

(2) on the record by an employee of the Office; and

(3) to the greatest extent practicable, in accordance with the principles and procedures set forth in sections 555 and 556 of title 5, United States Code.

(c) DECISION.—Not later than 20 days after the hearing, the Office shall issue a written decision to the parties. The decision shall clearly state the issues raised by the complaint, and shall contain a determination as to whether a violation of section 2 has occurred.

SEC. 7. STEP III: FINAL REVIEW BY REVIEW PANEL.

(a) IN GENERAL.—Not later than 20 days after issuance of the decision under section 6, any party may seek final review of the decision by filing a written request with the Office. The final review shall be conducted by a panel constituted at the beginning of each Congress and composed of—

(1) 2 elected officers of the House of Representatives, appointed by the Speaker;

(2) 2 employees of the House of Representatives appointed by the minority leader of the House of Representatives;

(3) 2 members of the Committee on House Administration (one of whom shall be appointed as chairman of the panel), appointed by the Chairman of that Committee; and

(4) 2 members of the Committee on House Administration, appointed by the ranking minority party member of that Committee.

If any member of the panel withdraws from a particular review, the appointing authority for such member shall appoint another officer, employee, or Member of the House of Representatives, as the case may be, to be a temporary member of the panel for purposes of that review only.

(b) REVIEW AND DECISION.—The review under this section shall consist of a hearing (conducted in the manner described in section 6(b)(3)), if such hearing is considered necessary by the panel, and an examination of the record, together with any statements or other documents the panel deems appropriate. A tie vote by the panel is an affirmation of the decision of the Office. The panel shall complete the review and submit a written decision to the parties and to the Committee on House Administration not later than 30 days after filing of the request under subsection (a).

SEC. 8. RESOLUTION BY AGREEMENT.

If, after a formal complaint is filed under section 6, the parties resolve the issues involved, the parties shall enter into a written agreement, which shall be effective—

(1) in the case of a matter under review by the Office under section 6, if approved by the Office; and

(2) in the case of a matter under review by a panel under section 7, if approved by the panel.

SEC. 9. REMEDIES.

The Office or a review panel, as the case may be, may order the following remedies:

(1) Monetary compensation, to be paid from the contingent fund of the House of Representatives.

(2) In the case of a serious violation, a payment in addition to compensation under paragraph (2), to be paid from the clerk-hire allowance of a Member of the House, or from personnel funds of a committee of the House or other entity, as appropriate.

(3) Injunctive relief.

(4) Costs and attorney fees.

(5) Employment, reinstatement to employment, or promotion (with or without back pay).

SEC. 10. COSTS OF ATTENDING HEARINGS.

An individual with respect to whom a hearing is held under this resolution shall be reimbursed for actual and reasonable costs of attending the hearing, if the individual resides outside the District of Columbia.

SEC. 11. PROHIBITION OF INTIMIDATION.

Any intimidation of, or reprisal against, any person by an employing authority because of the exercise of a right under this resolution is a violation of section 2.

SEC. 12. CLOSED HEARINGS AND CONFIDENTIALITY.

All hearings under this resolution shall be closed. All information relating to any procedure under this resolution is confidential, except that a decision of the Office under section 6 or a decision of a review panel under section 7 shall be published, if the decision constitutes a final disposition of the matter.

SEC. 13. EXCLUSIVITY OF PROCEDURES AND REMEDIES.

The procedures and remedies under this resolution are exclusive except to the extent that the Rules of the House of Representatives and the rules of the House Committee on Standards of Official Conduct provide for additional procedures and remedies.

SEC. 14. DEFINITIONS.

As used in this resolution—

(1) the term "employment position" means, with respect to the House of Representatives, a position the pay for which is disbursed by the Clerk of the House of Representatives, and any employment position in a legislative service organization or other entity that is paid through funds derived from the clerk-hire allowance;

(2) the term "employing authority" means, the Member of the House of Representatives or elected officer of the House of Representatives with the power to appoint the employee;

(3) the term "Member of the House of Representatives" means a Representative in, or a Delegate or Resident Commissioner to, the Congress; and

(4) the term "elected officer of the House of Representatives" means an elected officer of the House of Representatives (other than the Speaker and the Chaplain).

RULE XLIV.

FINANCIAL DISCLOSURE.

§940. Financial report disclosing certain financial interests.

1. A copy of each report filed with the Clerk under Title I of the Ethics in Government Act of 1978 shall be sent by the Clerk within the seven-day period beginning the date on which the report is filed to the Committee on Standards of Official Conduct. By July 1 of each year, the Clerk shall compile all such reports sent to him by Members within the period beginning on January 1 and ending on May 15 of each year and have them printed as a House document, which document shall be made available to the public.

2. For the purposes of this rule, the provisions of Title I of the Ethics in Government Act of 1978 shall be deemed to be a rule of the House as it pertains to Members, officers, and employees of the House of Representatives.

The original version of this rule was adopted on April 3, 1968 (H. Res. 1099, 90th Cong.). The jurisdiction of the Committee on Standards of Official Conduct was also redefined by this resolution. This rule was amended on May 26, 1970 (effective with respect to calendar years beginning on and after January 1, 1971) (H. Res. 796, 91st Cong., Rec. pp. 17019–20) to require public disclosure of (1) honorariums from a single source totaling $300 or more; and (2) each creditor to whom was owed an unsecured loan or other indebtedness of $10,000 or more which was outstanding for at least 90 days in the preceding calendar year. It was further amended in the 92d Congress to bring the Delegates from the District of Columbia, Guam and the Virgin Islands within the definition of "Members" in the final sentence of the rule (H. Res. 5, Jan. 22, 1971, p. 144; H. Res. 1153, Oct. 13, 1972, pp. 36021–23) and was amended in the 95th Congress (January 4, 1977, H. Res. 5, 95th Cong., pp. 53–70) to delete an obsolete reference to the requirements of first filing reports in 1969.

The rule was completely amended in the 95th Congress effective July 1, 1977 (H. Res. 287, Mar. 2, 1977, pp. 5933–53). The post-July 1, 1977 rule differed from its predecessor in (1) broadening the sources and minimum amounts of income reported; (2) requiring these reports to be filed with the Clerk as well as the Committee on Standards of Official Conduct; and (3) printing the reports as House documents available to the public rather than maintained by the Standards Committee.

All sealed reports filed by a person under part B of Rule XLIV prior to July 1, 1977, shall be returned to such person, or his legal representative, by the Committee on Standards of Official Conduct when such person is no longer required to file any report under such rule XLIV.

In the 95th Congress an advisory opinion promulgated by the Select Committee on Ethics interpreting provisions of this rule was inserted in the record (Dec. 6, 1977, pp. 38478–80). (The Committee on Standards of Official Conduct has prepared an Ethics Manual containing both its advisory opinions and those of the former Select Committee on Ethics [see § 943b, infra] for the benefit of all Members, officers, and employees.)

The rule was again amended in the 96th Congress (H. Res. 5, Jan. 15, 1979, pp. 7–16) to incorporate by reference the relevant provisions of Title I of the Ethics in Government Act of 1978 (a codification of Rule XLIV effective in the 95th Congress, after July 1, 1977) as they pertain to Members, officers and employees of the House of Representatives.

The relevant provisions of title I of the Ethics in Government Act of 1978 are as follows (Public Law 95–521, as amended by Public Law 96–19 and Public Law 98–150; see 2 U.S.C. 701–709).

TITLE I—LEGISLATIVE PERSONNEL FINANCIAL DISCLOSURE REQUIREMENTS

COVERAGE

Reports, filing.

SEC. 101. (a) Each Member in office on May 15 of a calendar year shall file on or before May 15 of that calendar year a report containing the information as described in section 102(a).

(b)(1) Any individual who is an officer or employee of the legislative branch described in subsection (e) during any calendar year and performs the duties of his position or office for a period in excess of sixty days in that calendar year shall file on or before May 15 of the succeeding year a report containing the information described in section 102(a) if such individual is or will be such an officer or employee on such May 15.

(2) Any individual whose employment as an officer or employee described in subsection (e) is terminated in any calendar year may be required—

(A) under the rules of the House of Representatives, if such individual would, but for such termination, file a report with the Clerk pursuant to section 103(a), or

(B) under the rules of the Senate, if such individual would, but for such termination, file a report with the Secretary pursuant to section 103(b),

to file a financial disclosure report covering (i) that part of such calendar year during which such individual was employed as such an officer or employee, and (ii) the preceding calendar year if the report required by paragraph (1) covering that calendar year has not been filed.

(c) Within thirty days of assuming the position of an officer or employee described in subsection (e), an individual other than an individual who was employed in the legislative branch immediately before he assumed such position, shall file a report containing the information as described in section 102(b) unless the individual has left another position described in subsection (e) within thirty days prior to assuming his new position. The provisions of the preceding sentence shall not apply to an individual who, as determined by the designated committee of the Senate or the designated committee of the House, as appropriate, is not reasonably expected to perform the duties of his office or position for more than sixty days in a calendar year, except that if he performs the duties of his office or position for more than sixty days in a calendar year, the report required by the preceding sentence shall be filed within fifteen days of the sixtieth day. This subsection shall take effect on January 1, 1979.

Effective date.

(d) Within thirty days of becoming a candidate in a calendar year for any election for the office of Member, or on or before May 15 of that calendar year, whichever is later, but in no event later than seven days prior to the election, and on or before May 15 of each successive year the individual continues to be a candidate, an individual shall file a report containing the information as described in section 102(b).

Notwithstanding the preceding sentence, in any calendar year in which an individual continues to be a candidate for any office but all elections for such office relating to such candidacy were held in prior calendar years, such individual need not file a report unless he becomes a candidate for another vacancy in that office or another office during that year.

(e) The officers and employees referred to in subsections (b) and (c) are—

(1) each officer or employee of the legislative branch who is compensated at a rate equal to or in excess of the annual rate of basic pay in effect for grade GS–16 of the General Schedule; and

(2) at least one principal assistant designated for purposes of this section by each Member who does not have an employee compensated at a rate equal to or in excess of the annual rate of basic pay in effect for grade GS–16 of the General Schedule.

Legislative branch.

For the purposes of this title, the legislative branch includes the Architect of the Capitol, the Botanic Gardens, the Congressional Budget Office, the Cost Accounting Standards Board, the General Accounting Office, the Government Printing Office, the Library of Congress, the Office of the Attending Physician, National Commission on Air Quality, and the Office of Technology Assessment.

(f) Reasonable extensions of time for filing any report may be granted by the designated committee of the Senate with respect to those filing with the Secretary and by the designated committee of the House of Representatives with respect to those filing with the Clerk but in no event may the extension granted to a Member or candidate result in a required report being filed later than seven days prior to an election involving the Member or candidate. If the day on which a report is required to be filed falls on a weekend or holiday, the report may be filed on the next business day.

* * * * * * *

(h) The designated committee of the House of Representatives, or the designated committee of the Senate, as the case may be, may grant a publicly available request for a waiver of any reporting requirement under this section for an individual who is expected to perform or has performed the duties of his office or position for less than one hundred and thirty days in a calendar year, but only if such committee determines that—

(1) such individual is not a full-time employee of the Government,

(2) such individual is able to provide services specially needed by the Government,

(3) it is unlikely that the individual's outside employment or financial interests will create a conflict of interest, and

(4) public financial disclosure by such individual is not necessary in the circumstances.

CONTENTS OF REPORTS

SEC. 102. (a) Each report filed pursuant to subsections (a) and (b) of section 101 shall include a full and complete statement with respect to the following:

(1) (A) The source, type, and amount or value of income (other than income referred to in subparagraph (B) from any source (other than from current employment by the United States Government), and the source, date, and amount of honoraria from any source, received during the preceding calendar year, aggregating $100 or more in value.

(B) The source and type of income which consists of dividends, interest, rent, and capital gains, received during the preceding calendar year which exceeds $100 in amount or value, and an indication of which of the following categories the amount or value of such item of income is within:

(i) not more than $1,000,
(ii) greater than $1,000 but not more than $2,500,
(iii) greater than $2,500 but not more than $5,000,
(iv) greater than $5,000 but not more than $15,000,
(v) greater than $15,000 but not more than $50,000,
(vi) greater than $50,000 but not more than $100,000 or
(vii) greater than $100,000.

(2)(A) The identity of the source and a brief description of any gifts of transportation, lodging, food, or entertainment aggregating $250 or more in value received from any source other than a relative of the reporting individual during the preceeding calendar year, except that any food, lodging, or entertainment received as personal hospitality of any individual need not be reported, and any gift with a fair market value of $35 or less need not be aggregated for purposes of this subparagraph.

(B) The identity of the source, a brief description, and the value of all gifts other than transportation, lodging, food, or entertainment aggregating $100 or more in value received from any source other than a relative of the reporting individual during the preceding calendar year, except that any gift with a fair market value of $35 or less need not be aggregated for purposes of this subparagraph.

(C) The identity of the source and a brief description of reimbursements received from any source aggregating $250 or more in value and received during the preceding calendar year.

(D) In an unusual case, a gift need not be aggregated under subparagraph (A) or (B) if a publicly available request for a waiver is granted.

(3) The identity and category of value of any interest in property held during the preceding calendar year in a trade or business, or for investment or the production of income, which has a fair market value which exceeds $1,000 as of the close of the preceding calendar year, excluding any personal liability owed to the reporting individual by a relative or any deposits aggregating $5,000 or less in a

Personal savings account.

personal savings account. For purposes of this paragraph, a personal savings account shall include any certificate of deposit or any other form of deposit in a bank, savings and loan association, credit union, or similar financial institution.

(4) The identity and category of value of the total liabilities owed to any creditor other than a relative which exceed $10,000 at any time during the preceding calendar year, excluding—

(A) any mortgage secured by real property which is a personal residence of the reporting individual or his spouse;

(B) any loan secured by a personal motor vehicle, household furniture, or appliances, which loan does not exceed the purchase price of the item which secures it.

With respect to revolving charge accounts, only those with an outstanding liability which exceeds $10,000 as of the close of the preceding calendar year need be reported under the paragraph.

(5) Except as provided in this paragraph, a brief description, the date, and category of value of any purchase, sale, or exchange during the preceding calendar year which exceeds $1,000—

(A) in real property, other than property used solely as a personal residence of the reporting individual or his spouse; or

(B) in stocks, bonds commodities futures, and other forms or securities.

Reporting is not required under this paragraph of any transaction solely by and between the reporting individual, his spouse, or dependent children.

(6) The identity of all positions held on or before the date of filing during the current calendar year as an officer, director, trustee, partner, proprietor, representative, employee, or consultant of any corporation, company, firm, partnership, or other business enterprise, any nonprofit organization, any labor organization, or any educational or other institution other than the United States. This paragraph shall not require the reporting of positions held in any religious, social, fraternal, or political entity and positions solely of an honorary nature.

(7) A description of the date, parties to, and terms of any agreement or arrangement with respect to: (A) future employment; (B) a leave of absence during the period of the reporting individual's Government service; (C) continuation of payments by a former employer other than the United States Government; and (D) continuing participation in an employee welfare or benefit plan maintained by a former employer.

(b) Each report filed pursuant to subsections (c) and (d) of section 101 shall include a full and complete statement with respect to the information required by—

(1) paragraph (1) of subsection (a) for the year of filing and the preceding calendar year,

(2) paragraphs (3) and (4) of subsection (a) as of the date specified in the report but which is less than thirty-one days before the filing date, and

(3) paragraph (6) and, in the case of reports filed under section 101(c), paragraph (7) of subsection (a) as of the filing date but for periods described in such paragraphs.

(c)(1) The categories for reporting the amount or value of the items covered in paragraphs (3), (4) and (5) of subsection (a) are as follows:

(A) not more than $5,000;
(B) greater than $5,000 but not more than $15,000;
(C) greater than $15,000 but not more than $50,000;
(D) greater than $50,000 but not more than $100,000;
(E) greater than $100,000 but not more than $250,000; and
(F) greater than $250,000.

(2) For the purposes of paragraph (3) of subsection (a) if the current value of an interest in real property (or an interest in a real estate partnership) is not ascertainable without an appraisal, an individual may list (A) the date of purchase and the purchase price of the interest in the real property, or (B) the assessed value of the real property for tax purposes, adjusted to reflect the market value of the property used for the assessment if the assessed value is computed at less than 100 percent of such market value, but such individual shall include in his report a full and complete description of the method used to determine such assessed value, instead of specifying a category of value pursuant to paragraph (1) of this subsection. If the current value of any other item required to be reported under paragraph (3) of subsection (a) is not ascertainable without an appraisal, such individual may list the book value of a corporation whose stock is not publicly traded, the net worth of a business partnership, the equity value of an individually owned business, or with respect to other holdings, any recognized indication of value, but such individual shall include in his report a full and complete description of the method used in determining such value. In lieu of any value referred to in the preceding sentence, an individual may list the assessed value of the item for tax purposes, adjusted to reflect the market value of the item used for the assessment if the assessed value is computed at less than 100 percent of such market value, but a full and complete description of the method used in determining such assessed value shall be included in the report.

(d)(1) Except as provided in the last sentence of this paragraph each report shall also contain information listed in paragraphs (1) through (5) of subsection (a) respecting the spouse or dependent child of the reporting individual as follows:

(A) The source of items of earned income earned by a spouse from any person which exceed $1,000 and, with respect to a spouse or dependent child, all information required to be reported in subsection (a)(1)(B) with respect to income derived from any asset held by the spouse or dependent child and reported pursuant to paragraph (3). With respect to earned income, if the spouse is self-employed in business or a profession, only the nature of such business or profession need be reported.

(B) In the case of any gifts received by a spouse which are not received totally independent of the spouse's relationship to the reporting individual, the identity of the source and a brief description of gifts of transportation, lodging, food, or entertainment and a brief description and the value of other gifts.

(C) In the case of any reimbursements received by a spouse which are not received totally independent of the spouse's relationship to the reporting individual, the identity of the sourse and a brief description of each such reimbursement.

(D) In the case of items described in paragraphs (3) through (5), all information required to be reported under these paragraphs other than items (i) which the reporting individual certifies represent the spouse's or dependent child's sole financial interest or responsibility and which the reporting individual has no knowledge of, (ii) which are not in any way, past or present, derived from the income, assets, or activities of the reporting individual, and (iii) from which the reporting individual neither derives, nor expects to derive, any financial or economic benefit.

Certification.

Each report referred to in subsection (b) of this sections shall, with respect to the spouse and dependent child of the reporting individual, only contain information listed in paragraphs (1), (3), and (4) of subsection (a), as specified in this paragraph.

(2) No report shall be required with respect to a spouse living separate and apart from the reporting individual with the intention of terminating the marriage or providing for permanent separation; or with respect to any income or obligations of an individual arising from the dissolution of his marriage or the permanent separation from his spouse.

(e)(1) Except as provided in paragraph (2), each reporting individual shall report the information required to be reported pursuant to subsections (a) and (b) of this section with respect to the holdings of and the income from a trust or other financial arrangement from which income is received by, or with respect to which a beneficial interest in principal or income is held by, such individual, his spouse, or any dependent child.

(2) A reporting individual need not report the holdings of or the source of income from any of the holdings of—

(A) any qualified blind trust (as defined in paragraph (3)); or

(B) a trust—

(i) which was not created directly by such individual, his spouse, or any dependent child, and

(ii) the holdings or sources of income of which such individual his spouse, and any dependent child have no knowledge of,

but such individual shall report the category of the amount of income received by him, his spouse, or any dependent child from the trust under subsection (a)(1)(B) of this section.

"Qualified blind trust," requirements.

(3) For purposes of this subsection, the term "qualified blind trust" includes any trust in which a reporting individual, his spouse, or any dependent child has a beneficial interest in the principal or income, and which meets the following requirements:

(A) The trustee of the trust is a financial institution, an attorney, a certified public accountant, a broker, or an investment adviser, who (in the case of a financial institution or investment company, any officer or employee involved in the management or control of the trust who)—

(i) is independent of and unassociated with any interested party so that the trustee cannot be controlled or influenced in the administration of the trust by any interested party,

(ii) is or has not been an employee of any interested party, or any organization affiliated with any interested party and is not a partner of, or involved in any joint venture or other investment with, any interested party, and

(iii) is not a relative of any interested party.

(B) Any asset transferred to the trust by an interested party is free of any restriction with respect to its transfer or sale unless such restriction is expressly approved by the supervising ethics office of the reporting individual.

(C) The trust instrument which establishes the trust provides that—

(i) except to the extent provided in subparagraph (B) of this paragraph, the trustee in the exercise of his authority and discretion to manage and control the assets of the trust shall not consult or notify any interested party;

(ii) the trust shall not contain any asset the holding of which by an interested party is prohibited by any law or regulation;

(iii) the trustee shall promptly notify the reporting individual and his supervising ethics office when the holdings of any particular asset transferred to the trust by any interested party are disposed of or when the value of such holding is less than $1,000;

(iv) the trust tax return shall be prepared by the trustee or his designee, and such return and any information relating thereto (other than the trust income summarized in appropriate categories necessary to complete an interested party's tax return), shall not be disclosed to any interested party;

(v) an interested party shall not receive any report on the holdings and sources of income of the trust, except a report at the end of each calendar quarter with respect to the total cash value of the interest of the interested party in the trust or the net income or loss of the trust or any reports necessary to enable the interested party to complete an individual tax return required by law or to provide the information required by subsection (a)(1)(B) of this section but such report shall not identify any asset or holding;

(vi) except for communications which solely consist of requests for distributions of cash or other unspecified assets of the trust, there shall be no direct or indirect communication between the trustee and an interested party with respect to the trust unless such communication is in writing and unless it relates only (I) to the general financial interest and needs of the interested party (including, but not limited to, an interest in maximizing the income or long-term capital gain), (II) to the notification of the trustee of a law or regulation subsequently applicable to the reporting individual which prohibits the interested party from holding an asset, which notification directs that the asset not be held by the trust, or (III) to directions to the trustee to sell all of an asset initially placed in the trust by an interested party which in the determination of the reporting individual creates a conflict of interest or the appearance thereof due to the subsequent assumption of duties by the reporting individual (but nothing herein shall require any such direction); and

(vii) the interested parties shall make no effort to obtain information with respect to the holdings of the trust, including obtaining a copy of any trust tax return filed or any information relating thereto except as otherwise provided in this subsection.

(D) The proposed trust instrument and the proposed trustee is approved by the reporting individual's supervising ethics office.

Definitions.

For purposes of this subsection "interested party" means a reporting individual, his spouse, and any dependent child if the reporting individual, his spouse, or dependent child has a beneficial interest in the principal or income of a qualified blind trust; "broker" has the meaning set forth in section 3(a)(4) of the Securities and Exchange Act of 1934 (15 U.S.C. 78c(a)(4)); "investment adviser" includes any investment adviser who, as determined under regulations prescribed by the supervising ethics office, is generally involved in his role as such an adviser in the management or control of trusts; and "supervising ethics office" means the designated committee of the House of Representatives for those who file their reports required by this title with the Clerk and the designated committee of the Senate for those who file the reports required by this title with the Secretary.

(4) An asset placed in a trust by an interested party shall be considered a financial interest of the reporting individual, for the purposes of section 208 of title 18, United States Code, and any other conflict of interest statutes or regulations of the Federal Government, until such time as the reporting individual is notified by the trustee that such asset has been disposed of, or has a value of less than $1,000.

Copy, filing with ethics office.

(5)(A) The reporting individual shall, within thirty days after a qualified blind trust is approved by his supervising ethics office, file with such office a copy of—

(i) the executed trust instrument of such trust (other than those provisions which relate to the testamentary disposition of the trust assets), and

(ii) a list of the assets which were transferred to such trust, including the category of value of each asset as determined under subsection (c)(1) of this section.

This subparagraph shall not apply with respect to a trust meeting the requirements for being considered a qualified blind trust under paragraph (7) of this subection.

Notification.

(B) The reporting individual shall, within thirty days of transferring an asset (other than cash) to a previously established qualified blind trust, notify his supervising ethics office of the identity of each such asset and the category of value of each asset as determined under subsection (c)(1) of this section.

Dissolution, notification and filing.

(C) Within thirty days of the dissolution of a qualified blind trust, a reporting individual shall—

(i) notify his supervising ethics office of such dissolution, and

(ii) file with such office a copy of a list of the assets of the trust at the time of such dissolution and the category of value under subsection (c) of this subsection of each such asset.

Public availability.

(D) Documents filed under subparagraphs (A), (B), and (C) of this paragraph and the lists provided by the trustees of assets placed in the trust by an interested party which have been sold shall be made available to the public in the same manner as a report is made available under section 104, and the provisions of that section shall apply with respect to such documents and lists.

Copy, filing.

(E) A copy of each written communication with respect to the trust under paragraph (3)(C)(vi) shall be filed by the person initiating the communication with the reporting individual's supervising ethics office within five days of the date of the communication.

(6)(A) A trustee of a qualified blind trust shall not knowingly or negligently (i) disclose any information to an interested party with respect to such trust that may not be disclosed under paragraph (3) of this subsection; (ii) acquire any holding the ownership of which is prohibited by the trust instrument; (iii) solicit advice from any interested party with respect to such trust, which solicitation is prohibited by paragraph (3) of this subsection or the trust agreement; or (iv) fail to file any document required by this subsection.

(B) A reporting individual shall not knowingly or negligently (i) solicit or receive any information with respect to a qualified blind trust of which he is an interested party that may not be disclosed under paragraph (3)(C) of this subsection, or (ii) fail to file any document required by this subsection.

Civil action, penalty.

(C)(i) The Attorney General may bring a civil action in any appropriate United States District Court against any individual who knowingly and willfully violates the provisions of subparagraph (A) or (B) of this paragraph. The court in which such action is brought may assess against such individual a civil penalty in any amount not to exceed $5,000.

(ii) The Attorney General may bring a civil action in any appropriate United States District Court against any individual who negligently violates the provisions of subparagraph (A) or (B) of this paragraph. The court in which such action is brought may assess against such individual a civil penalty in any amount not to exceed $1,000.

Qualified blind trust, considerations.

(7) Any trust may be considered to be a qualified blind trust if—

(A) the trust instrument is amended to comply with the requirements of paragraph (3) or, in the case of a trust instrument which does not by its terms permit amendment, the trustee, the reporting individual, and any other interested party agree in writing that the trust shall be administered in accordance with the requirements of this subsection and the trustee of such trust meets the requirements of paragraph (3)(A); except that in the case of any interested party who is a dependent child, a parent or guardian of such child may execute the agreement referred to in this subparagraph;

(B) a copy of the trust instrument (except testamentary provisions) and a copy of the agreement referred to in subparagraph (A), and a list of the assets held by the trust at the time of approval by the supervising ethics office, including the category of value of each asset as determined under subsection (d) of this section, are filed with such office and made available to the public as provided under paragraph (5)(D) of this subsection; and

(C) the supervising ethics office determines that approval of the trust arrangement as a qualified blind trust is in the particular case appropriate to assure compliance with the applicable laws and regulations.

(f) Political campaign funds, including campaigning receipts and expenditures, need not be included in any report filed pursuant to this title.

(g) A report filed pursuant to subsection (a) or (b) of section 101 need not contain the information described in subparagraphs (A), (B), and (C) of subsection (a)(2) with respect to gifts and reimbursements received in a period when the reporting individual was not a Member or an officer or employee of the Federal Government.

FILING OF REPORTS; DUTIES OF CLERK AND SECRETARY

SEC. 103. (a) The reports required by section 101 of Representatives, Delegates to Congress, the Resident Commissioner from Puerto Rico, officers and employees of the House, candidates seeking election to the House, and officers and employees of the Architect of the Capitol, the Botanic Gardens, the Congressional Budget Office, the Government Printing Office, and the Library of Congress shall be filed with the Clerk.

(b) The reports required by section 101 of Senators, officers and employees of the Senate, candidates seeking election to the Senate, and officers and employees of the General Accounting Office, the Cost Accounting Standards Board, the Office of Technology Assessment, National Commission on Air Quality and the Office of the Attending Physician shall be filed with the Secretary.

Copies.

(c) A copy of each report filed by a Member or an individual who is a candidate for the office of Member shall be sent by the Clerk or Secretary, as the case may be, to the appropriate State officer as designated in accordance with section 316(a) of the Federal Election Campaign Act of 1971 (2 U.S.C. 439(a)) of the State represented by the Member or in which the individual is a candidate, as the case may be, within the seven-day period beginning the day that the report is filed with the Clerk or Secretary.

(d)(1) A copy of each report filed under this title with the Clerk shall be sent by the Clerk to the designated committee of the House of Representatives within the seven-day period beginning the day that the report is filed.

(2) A copy of each report filed with the Secretary shall be sent by the Secretary to the designated committee of the Senate.

FEC assistance.

(e) In carrying out their responsibilities under this title, the Clerk and the Secretary shall avail themselves of the assistance of the Federal Election Commission. The Commission shall make available to the Clerk and the Secretary on a regular basis a complete list of names and addresses of all candidates registered with the Commission, and shall cooperate and coordinate its candidate information and notification program with the Clerk and the Secretary to the greatest extent possible.

Reporting forms and rules and regulations, consultation.

(f) In order to carry out their responsibilities under this title, the designated committee of the House of Representatives, and the designated committee of the Senate, shall develop reporting forms and may promulgate rules and regulations.

ACCESSIBILITY OF REPORTS

Public inspection.

SEC. 104. (a) Except as provided in the second sentence of this subsection, within fifteen calendar days after a report is filed with the Clerk under this title, the Clerk shall make such report available for public inspection at reasonable hours. With respect to reports required to be filed by May 15 of any year, such reports shall be made available for public inspection within fifteen calendar days after May 15 of such year. A copy of any such report shall be provided by the Clerk to any person upon request.

(b) Except as provided in the second sentence of this subsection, within fifteen days after a report is filed with the Secretary under this title, the Secretary shall make such report available for public inspection at reasonable hours. With respect to reports required to be filed by May 15 of any year, such reports shall be made available for public inspection within fifteen calendar days after May 15 of such year. A copy of any such report shall be provided by the Secretary to any person upon request.

(c)(1) Notwithstanding subsections (a) and (b), a report may not be made available under this section to any person nor may any copy thereof be provided under this section to any person except upon a written application by such person stating—

(A) that person's name, occupation, and address;

(B) the name and address of any other person or organization on whose behalf the inspection or copy is requested; and

(C) that such person is aware of the prohibitions on the obtaining or use of the report.

Any such application shall be made available to the public throughout the period during which the report is made available to the public.

(2) Any person requesting a copy of a report may be required to pay a reasonable fee to cover the cost of reproduction or mailing of such report, excluding any salary of any employee involved in such reproduction or mailing. A copy of such report may be furnished without charge or at a reduced charge if it is determined by the Clerk or Secretary that waiver or reduction of the fee is in the public interest because furnishing the information may be considered as primarily benefiting the public.

(d) Any report filed under this title with the Clerk or Secretary shall be available to the public for a period of six years after receipt of the report. After such six-year period the report shall be destroyed unless needed in an ongoing investigation, except that in the case of an individual who filed the report pursuant to section 101(d) and was not subsequently elected, such reports shall be destroyed one year after the individual is no longer a candidate for election to the office of Member unless needed in an ongoing investigation.

Unlawful actions.

(e)(1) It shall be unlawful for any person to obtain or use a report—

(A) for any unlawful purpose;

(B) for any commercial purpose other than by news and communications media for dissemination to the general public;

(C) for determining or establishing the credit rating of any individual; or

(D) for use, directly or indirectly, in the solicitation of money for any political, charitable, or other purpose.

Civil action, penalty.

(2) The Attorney General may bring a civil action against any person who obtains or uses a report for any purpose prohibited in paragraph (1). The court in which such action is brought may assess against such person a penalty in any amount not to exceed $5,000. Such remedy shall be in addition to any other remedy available under statutory or common law.

REVIEW AND COMPLIANCE PROCEDURES

SEC. 105. (a) The designated committee of the House of Representatives and the designated committee of the Senate shall establish procedures for the review of reports sent to them under section 103(d)(1) and section 103(d)(2) to determine whether the reports are filed in a timely manner, are complete, and are in proper form. In the event a determination is made that a report is not so filed, the appropriate committee shall so inform the reporting individual and direct him to take all necessary corrective action.

Congressional committee advisory opinions.

(b) In order to carry out their responsibilities under this title the designated committee of the House of Representatives and the designated committee of the Senate, have power, within their respective jurisdictions, to render any advisory opinion interpreting this title, in writing, to persons covered by this title. Notwithstanding any other provisions of law, the individual to whom a public advisory opinion is rendered in accordance with this subsection, and any other individual covered by this title who is involved in a fact situation which is indistinguishable in all material aspects, and who, after the issuance of the advisory opinion, acts in good faith in accordance with the provisions and findings of such advisory opinion shall not, as a result of such act, be subject to any sanction provided in this title.

FAILURE TO FILE OR FALSIFYING REPORTS

Civil action.

SEC. 106. The Attorney General may bring a civil action in any appropriate United States district court against any individual who knowingly and willfully falsifies or who knowingly and willfully fails to file or report any information that such individual is required to report pursuant to section 102. The court in which such action is brought may assess against such individual a civil penalty in any amount not to exceed $5,000. No action may be brought under this section against any individual with respect to a report filed by such individual in calendar year 1978 pursuant to section 101(d).

DEFINITIONS

SEC. 107. For the purpose of this title, the term—

(1) "income" means all income from whatever source derived including but not limited to the following items: compensation for services, including fees, commissions, and similar items; gross income derived from business (and net income if the individual elects to include it); gains derived from dealings in property; interest; rents; royalties; dividends; annuities; income from life insurance and endowment contracts; pensions; income from discharge of indebtedness; distributive share of partnership income; and income from an interest in an estate or trust;

(2) "relative" means an individual who is related to the reporting individual, as father, mother, son, daughter, brother, sister, uncle, aunt, great aunt, great uncle, first cousin, nephew, niece, husband, wife, grandfather, grandmother, grandson, granddaughter, father-in-law, mother-in-law, son-in-law, daughter-in-law, brother-in-law, sister-in-law, stepfather, stepmother, stepson, stepdaughter, stepbrother, stepsister, half brother, half sister, or who is the grandfather or grandmother of the spouse of the reporting individual and shall be deemed to include the fiance or fiancee of the reporting individual;

(3) "gift" means a payment, advance, forbearance, rendering, or deposit of money or any thing of value, unless consideration of equal or greater value is received by the donor, but does not include—

(A) bequest and other forms of inheritance;

(B) suitable mementos of a function honoring the reporting individual;

(C) food, lodging, transportation, and entertainment provided by State and local governments, or political subdivisions thereof, by a foreign government within a foreign country, or by the United States Government;

(D) food and beverages consumed at banquets, receptions, or similar events;

(E) consumable products provided by home-State businesses to a Member's office for distribution; or

(F) communications to the offices of a reporting individual including subscriptions to newspapers and periodicals;

(4) "honoraria" has the meaning given such term in the Federal Election Campaign Act of 1971;

(5) "value" means a good faith estimate of the dollar value if the exact value is neither known nor easily obtainable by the reporting individual;

(6) "personal hospitality of any individual" means hospitality extended for a nonbusiness purpose by an individual, not a corporation or organization, at the personal residence of that individual or his family or on property or facilities owned by that individual or his family;

(7) "dependent child" means, when used with respect to any reporting individual, any individual who is a son, daughter, stepson, or stepdaughter and who—

(A) is unmarried and under age 21 and is living in the household of such reporting individual; or

(B) is a dependent of such reporting individual within the meaning of section 152 of the Internal Revenue Code of 1954;

(8) "reimbursement" means any payment or other thing of value received by the reporting individual, other than gifts, to cover travel-related expenses of such individual other than those which are—

(A) provided by the United States Government, the District of Columbia, or any State or political subdivision thereof;

(B) required to be reported by the reporting individual under section 7342 of title 5, United States Code; or

(C) required to be reported under section 304 of the Federal Election Campaign Act of 1971 (2 U.S.C. 434);

(9) "candidate" means an individual, other than a Member, who seeks nomination for election, or election, to the Congress whether or not such individual is elected, and for purposes of this paragraph, an individual shall be deemed to seek nomination for election, or election, (A) if he has taken the action necessary under the law of a State to qualify himself for nomination for election, or election, or (B) if he or his principal campaign committee has taken action to register or file campaign reports required by section 304(a) of the Federal Election Campaign Act of 1971 (2 U.S.C. 434(a));

(10) "Clerk" means the Clerk of the House of Representatives;

(11) "Secretary" means the Secretary of the Senate;

(12) "Member" means a United States Senator, a Representative in Congress, a Delegate to Congress, or the Resident Commissioner from Puerto Rico;

(13) "election" means (A) a general, special, primary, or run-off election, or (B) a convention or caucus of a political party which has authority to nominate a candidate;

(14) "officer or employee of the House" means any individual, other than a Member, whose compensation is disbursed by the Clerk;

(15) "officer or employee of the Senate" means an individual, other than a Senator or the Vice President, whose compensation is disbursed by the Secretary; and

(16) "designated committee of the House of Representatives" and "designated committee of the Senate" means the committee of the House or Senate, as the case may be, assigned responsibility for administering the reporting requirements of this title.

OTHER LAWS

SEC. 108. The provisions added by this title, and the regulations issued thereunder, shall supersede and preempt any State or local law with respect to financial disclosure by reason of holding the office of Member or candidacy for Federal office or employment by the United States Government.

GENERAL ACCOUNTING OFFICE STUDY

SEC. 109. (a) Before November 30, 1980, and regularly thereafter, the Comptroller General of the United States shall conduct a study to determine whether this title is being carried out effectively and whether timely and accurate reports are being filed by individuals subject to this title.

Report and legislative recommendations to House and Senate.

(b) Within thirty days after completion of the study, the Comptroller General shall transmit a report to each House of Congress containing a detailed statement of his findings and conclusions, together with his recommendations for such legislative and administrative actions as he deems appropriate. The first such study shall include the Comptroller General's findings and recommendations on the feasibility and potential need for a requirement that systematic random audits be conducted of financial disclosure reports filed under this title, including a thorough discussion of the type and nature of audits that might be conducted; the personnel and other costs of audits; the value of an audit to Members, the appropriate House and Senate committees, and the public; and, if conducted, whether a governmental or nongovernmental unit should perform the audits, and under whose supervision.

RULE XLV.

PROHIBITION OF UNOFFICIAL OFFICE ACCOUNTS.

1. On or after January 3, 1978, no Member may maintain or have maintained for his use an unofficial office account.

§941. 2. After the date of adoption of this rule, no funds may be paid into any unofficial office account.

3. For purposes of this rule—

(a) the term "unofficial office account" means an account or repository into which funds are received for the purpose of defraying otherwise unreimbursed expenses allowable under section 162(a) of the Internal Revenue Code of 1954 as ordinary and necessary in the operation of a congressional office, and includes any newsletter fund referred to in section 527(g) of the Internal Revenue Code of 1954; and

(b) the term "Member" means any Member of, Delegate to, or Resident Commissioner in, the House of Representatives.

This rule was adopted by the House on March 2, 1977 (H. Res. 287, 95th Cong., pp. 5933–53). In the 95th Congress, advisory opinions promulgated by the Select Committee on Ethics interpreting this rule were inserted in the Record (May 18, 1977, p. 15449).

RULE XLVI.

LIMITATIONS ON THE USE OF THE FRANK.

§942. 1. Any franked mail which is mailed by a Member under section 3210(d) of title 39, United States Code, shall be mailed at the equivalent rate of postage which assures that such mail will be sent by the most economical means practicable.

2. After December 31, 1977, the total number of pieces of mail which may be mailed as franked mail under section 3210(d) of title 39, United States Code, during any calendar year by

a Member entitled to mail franked mail under this subsection may not exceed an amount equal to six multiplied by the number of addresses to which such mail may be delivered, in accordance with paragraph (4) of section 3210(d) of title 39, United States Code, in the area from which such Member was elected. Any mail matter which relates solely to a notice of appearance or a scheduled itinerary of a Member in the area from which such Member was elected shall not count against the limitation set forth in the preceding sentence.

3. Any Member entitled to mail franked mail under section 3210(d) of title 39, United States Code, shall, before making any such mailing, submit a sample or description of the mail matter involved to the House Commission on Congressional Mailing Standards for an advisory opinion as to whether such proposed mailing is in compliance with the provisions of such section.

4. Any mass mailing which otherwise is frankable by a Member under the provisions of section 3210(e) of title 39, United States Code, shall not be frankable unless the cost of preparing and printing such mass mailing is defrayed exclusively from funds made available in any appropriations Act.

5. In the case of any Representative in the House of Representatives, other than a Representative at Large, who is a candidate for any statewide public office, any mass mailing shall not be frankable under section 3210 of title 39,

United States Code, when the same is delivered to any address which is not located in the area constituting the congressional district from which any such individual was elected.

6. In the case of any Member, any mass mailing shall not be frankable under section 3210 of title 39, United States Code, when the same is mailed less than sixty days immediately before the date of any primary or general election (whether regular, special, or runoff) in which such Member is a candidate for public office.

7. For purposes of this rule, the term "Member" means any Member of the House of Representatives, a Delegate to the House of Representatives, or the Resident Commissioner in the House of Representatives.

This rule was adopted by the House on March 2, 1977 (H. Res. 287, 95th Cong., pp. 5933-53). In the 95th Congress an advisory opinion promulgated by the Select Committee on Ethics interpreting this rule was inserted in the Record (Apr. 21, 1977, pp. 11617-19).

RULE XLVII.

LIMITATIONS ON OUTSIDE EARNED INCOME.

§ 943a. 1. (a) Except as provided by paragraph (b), no Member may, in any calendar year beginning after December 31, 1978, have outside earned income attributable to such calendar year which is in excess of 30 per centum of the aggregate salary as a Member paid to the Member during such calendar year.

(b) In the case of any individual who becomes a Member during any calendar year beginning after December 31, 1978, such Member may not have outside earned income attributable to the portion of that calendar year which occurs after such individual becomes a Member which is in excess of 30 per centum of the aggregate salary as a Member paid to the Member during such calendar year.

2. For purposes of clause 1, honoraria shall be attributable to the calendar year in which payment is received.

3. For the purposes of this rule—

(a) The term "Member" means any Member of the House of Representatives, a Delegate to the House of Representatives, or the Resident Commissioner in the House of Representatives.

(b) The term "honorarium" means a payment of money or any thing of value to a Member for an appearance, speech, or article, by the Member; but there shall not be taken into account for purposes of this paragraph any actual and necessary travel expenses incurred by the Member to the extent that such expenses are paid or reimbursed by any other person, and the amount otherwise determined shall be reduced by the amount of any such expenses to the extent that they are not paid or reimbursed.

(c) The term "travel expenses" means, with respect to a Member, the cost of transportation, and the cost of lodging and meals while away from his residence or the greater Washington, District of Columbia, metropolitan area.

(d) The term "outside earned income" means, with respect to a Member, wages, salaries, professional fees, honorariums, and other amounts (other than copyright royalties) received or to be received as compensation for personal services actually rendered but does not include—

(1) the salary of such Member as a Member;

(2) any compensation derived by such Member for personal services actually rendered prior to the effective date of this rule or becoming such a Member, whichever occurs later;

(3) any amount paid by, or on behalf of, a Member to a tax-qualified pension, profit-sharing, or stock bonus plan and received by such Member from such a plan; and

(4) in the case of a Member engaged in a trade or business in which the Member or his family holds a controlling interest and in which both personal services and capital are income-producing factors, any amount received by such Member so long as the personal services actually rendered by the Member in the trade or business do not generate a significant amount of income.

Outside earned income shall be determined without regard to any community property law.

The rule on outside earned income was adopted by the House on March 2, 1977 (H. Res. 287, 95th Cong., pp. 5933–53). It was amended for the first time in the 96th Congress to increase the limit on a single honorarium from $750 to $1000 (H. Res. 5, Jan. 15, 1979, pp. 7–16). The rule was amended further in the 97th Congress to (1) increase the limitation on outside earned income for a calendar year from 15 to 30 per centum of a Member's salary; (2) strike the $1000 limitation on a single honorarium; and (3) provide that honoraria shall be attributable to the calendar year in which payment is received, effective Jan. 1, 1981 (H. Res. 305, Dec. 15, 1981, p. 31529). In the 99th Congress, paragraphs (a) and (b) were amended to delete the 30 percent of aggregate salary limitation on outside earned income and to conform the limitation to that contained in law (2 U.S.C. § 31-1 provides that a Member of Congress may not accept honoraria in excess of 40 percent of his aggregate salary) (H. Res. 427, Apr. 22, 1986, p. ——). The next day, the House adopted a resolution vacating the proceedings by which that resolution had been adopted and laying that resolution on the table (H. Res. 432, Apr. 23, 1986, p. ———). For further interpretations of this rule see advisory opinions promulgated by the Select Committee on Ethics in the 95th Congress (Nov. 9, 1978, p. 38883) and in the 98th Congress (Apr. 5, 1983, p. ——). A separate provision of law (2 U.S.C. 441i) provides criminal penalties for any elected or appointed Federal employee who accepts an honorarium of more than $2000 per speech, but the statutory ceiling of $25,000 from honoraria in a calendar year was repealed in 1981 (Public Law 97–51). The Senate repealed its rule on outside earned income in the 97th Congress (S. Res. 512, Dec. 14, 1982, p. 30640).

§ 943b. The House established in the 95th Congress a Select Committee on Ethics to "consider and report to the House on any bills or resolutions which may include provisions incorporating into permanent law applicable provisions and appropriate modifications of Rule XLIII, Rule XLIV, Rule XLV, Rule XLVI, and Rule XLVII which may be referred to the select committee by the Speaker." The select committee was given exclusive jurisdiction over the bills and resolutions referred to it, and jurisdiction to adopt regulations and to issue advisory opinions respecting the application of those rules. The resolution creating that committee (H. Res. 383, 95th Cong., Mar. 9, 1977, pp. 6811–6) provided that the committee expire on Dec. 31, 1977, but the committee and its functions were extended through the "completion of its official business" in the 95th Congress (H. Res. 871, Oct. 31, 1977, p. 35957). For a compilation of advisory opinions issued by the Select Committee on Ethics, see the final activities report filed by the Select Committee in the 95th Congress (H. Rept. 95–1837); for the legislation reported in part by the Select Committee on Ethics, enacting into permanent law provisions and modifications of Rule XLIV (relating to financial disclosure), see Public Law 95–521. See also § 689, supra, relating to advisory opinions issued by the Committee on Standards of Official Conduct.

RULE XLVIII.

PERMANENT SELECT COMMITTEE ON INTELLIGENCE.

§944a. Permanent Select Committee on Intelligence.

1. (a) There is hereby established a permanent select committee to be known as the Permanent Select Committee on Intelligence (hereinafter in this rule referred to as the "select committee"). The select committee shall be composed of not more than nineteen Members with representation to include at least one Member from:

(1) the Committee on Appropriations;
(2) the Committee on Armed Services;
(3) the Committee on Foreign Affairs; and
(4) the Committee on the Judiciary.

(b) The majority leader of the House and the minority leader of the House shall be ex officio members of the select committee, but shall have no vote in the committee and shall not be counted for purposes of determining a quorum.

(c) No Member of the House may serve on the select committee for more than six years of continuous service, exclusive of service by any Member of the House on such committee during the Ninety-fifth Congress. To the greatest extent practicable, at least four of the Members of the House appointed to the select committee at the beginning of the Ninety-seventh Congress and each Congress thereafter shall be Members of the House who did not serve on such committee during the preceding Congress.

2. (a) There shall be referred to the select committee all proposed legislation, messages, petitions, memorials, and other matters relating to the following:

(1) The Central Intelligence Agency and Director of Central Intelligence.

(2) Intelligence and intelligence-related activities of all other departments and agencies of the Government, including, but not limited to, the intelligence and intelligence-related activities of the Defense Intelligence Agency, the National Security Agency, and other agencies of the Department of Defense; the Department of State; the Department of Justice; and the Department of the Treasury.

(3) The organization or reorganization of any department or agency of the Government to the extent that the organization or reorganization relates to a function or activity involving intelligence or intelligence-related activities.

(4) Authorizations for appropriations, both direct and indirect, for the following:

(A) The Central Intelligence Agency and Director of Central Intelligence.

(B) The Defense Intelligence Agency.

(C) The National Security Agency.

(D) The intelligence and intelligence-related activities of other agencies and subdivisions of the Department of Defense.

(E) The intelligence and intelligence-related activities of the Department of State.

(F) The intelligence and intelligence-related activities of the Federal Bureau of Investigation, including all activities of the Intelligence Division.

(G) Any department, agency, or subdivision which is the successor to any agency named in subdivision (A), (B), or (C); and the activities of any department, agency, or subdivision which is the successor to any department, agency, bureau, or subdivision named in subdivision (D), (E), or (F), to the extent that the activities of such successor department, agency, or subdivision are activities described in subdivision (D), (E), or (F).

(b) Any proposed legislation initially reported by the select committee, except any legislation involving matters specified in subparagraph (1) or (4) (A) of paragraph (a), containing any matter otherwise within the jurisdiction of any standing committee shall, at the request of the chairman of such standing committee, be referred to such standing committee by the Speaker for its consideration of such matter and be reported to the House by such standing committee within the time prescribed by the Speaker in the referral; and any proposed legislation initially reported by any committee, other than the select committee, which contains any matter within the jurisdiction of the select committee shall, at the request of the chairman of the select committee, be referred by the Speaker to the select committee for its consideration of such matter and be reported to the House within the time prescribed by the Speaker in the referral.

(c) Nothing in this rule shall be construed as prohibiting or otherwise restricting the authority of any other committee to study and review any intelligence or intelligence-related activity to the extent that such activity directly affects a matter otherwise within the jurisdiction of such committee.

(d) Nothing in the rule shall be construed as amending, limiting, or otherwise changing the authority of any standing committee of the House to obtain full and prompt access to the product of the intelligence and intelligence-related activities of any department or agency of the Government relevant to a matter otherwise within the jurisdiction of such committee.

3. (a) The select committee, for the purposes of accountability to the House, shall make regular and periodic reports to the House on the nature and the extent of the intelligence and intelligence-related activities of the various departments and agencies of the United States. Such committee shall promptly call to the attention of the House or to any other appropriate committee or committees of the House any matters requiring the attention of the House or such other committee or committees. In making such reports, the select committee shall proceed in a

manner consistent with clause 7 to protect national security.

(b) The select committee shall obtain an annual report from the Director of the Central Intelligence Agency, the Secretary of Defense, the Secretary of State, and the Director of the Federal Bureau of Investigation. Such reports shall review the intelligence and intelligence-related activities of the agency or department concerned and the intelligence and intelligence-related activities of foreign countries directed at the United States or its interest. An unclassified version of each report may be made available to the public at the discretion of the select committee. Nothing herein shall be construed as requiring the public disclosure in such reports of the names of individuals engaged in intelligence or intelligence-related activities for the United States or the divulging of intelligence methods employed or the sources of information on which such reports are based or the amount of funds authorized to be appropriated for intelligence and intelligence-related activities.

(c) On or before March 15 of each year, the select committee shall submit to the Committee on the Budget of the House the views and estimates described in section 301(c) of the Congressional Budget Act of 1974 regarding matters within the jurisdiction of the select committee.

4. To the extent not inconsistent with the provisions of this rule, the provisions of clauses 1, 2, 3, and 5 (a), (b), (c) and (6) (a), (b), (c) of rule XI shall apply to the select committee, except that,

notwithstanding the requirements of the first sentence of clause 2(g)(2) of rule XI, a majority of those present, there being in attendance the requisite number required under the rules of the select committee to be present for the purpose of taking testimony or receiving evidence, may vote to close a hearing whenever the majority determines that such testimony or evidence would endanger the national security.

5. No employee of the select committee or any person engaged by contract or otherwise to perform services for or at the request of such committee shall be given access to any classified information by such committee unless such employee or person has (1) agreed in writing and under oath to be bound by the rules of the House (including the jurisdiction of the Committee on Standards of Official Conduct and of the select committee as to the security of such information during and after the period of his employment or contractual agreement with such committee); and (2) received an appropriate security clearance as determined by such committee in consultation with the Director of Central Intelligence. The type of security clearance to be required in the case of any such employee or person shall, within the determination of such committee in consultation with the Director of Central Intelligence, be commensurate with the sensitivity of the classified information to which such employee or person will be given access by such committee.

6. The select committee shall formulate and carry out such rules and procedures as it deems necessary to prevent the disclosure, without the consent of the person or persons concerned, of information in the possession of such committee which unduly infringes upon the privacy or which violates the constitutional rights of such person or persons. Nothing herein shall be construed to prevent such committee from publicly disclosing any such information in any case in which such committee determines that national interest in the disclosure of such information clearly outweighs any infringement on the privacy of any person or persons.

7. (a) The select committee may, subject to the provisions of this clause, disclose publicly any information in the possession of such committee after a determination by such committee that the public interest would be served by such disclosure. Whenever committee action is required to disclose any information under this clause, the committee shall meet to vote on the matter within five days after any member of the committee requests such a vote. No member of the select committee shall disclose any information, the disclosure of which requires a committee vote, prior to a vote by the committee on the question of the disclosure of such information or after such vote except in accordance with this clause.

(b)(1) In any case in which the select committee votes to disclose publicly any information which has been classified under established security procedures, which has been submitted to it by the executive branch, and which the executive branch requests be kept secret, such committee shall notify the President of such vote.

(2) The select committee may disclose publicly such information after the expiration of a five-day period following the day on which notice of such vote is transmitted to the President, unless, prior to the expiration of such five-day period, the President, personally in writing, notifies the committee that he objects to the disclosure of such information, provides his reasons therefor, and certifies that the threat to the national interest of the United States posed by such disclosure is of such gravity that it outweighs any public interest in the disclosure.

(3) If the President, personally, in writing, notifies the select committee of his objections to the disclosure of such information as provided in subparagraph (2), such committee may, by majority vote, refer the question of this disclosure of such information with a recommendation thereon to the House for consideration. The committee shall not publicly disclose such information without leave of the House.

(4) Whenever the select committee votes to refer the question of disclosure of any information to the House under subparagraph (3), the chairman shall, not later than the first day on which the House is in session following the day on which the vote occurs, report the matter to the House for its consideration.

(5) If within four calendar days on which the House is in session, after such recommendation is reported, no motion has been made by the chairman of the select committee to consider, in closed session, the matter reported under subparagraph (4), then such a motion will be deemed privileged and may be made by any Member. The motion under this subparagraph shall not be subject to debate or amendment. When made, it shall be decided without intervening motion, except one motion to adjourn.

(6) If the House adopts a motion to resolve into closed session, the Speaker shall then be authorized to declare a recess subject to the call of the Chair. At the expiration of such recess, the pending question, in closed session, shall be, "Shall the House approve the recommendation of the select committee?"

(7) After not more than two hours of debate on the motion, such debate to be equally divided and controlled by the chairman and ranking minority member of the select committee, or their designees, the previous question shall be considered as ordered and the House, without intervening motion except one motion to adjourn, shall immediately vote on the question, in open session but without divulging the information with respect to which the vote is being taken. If the recommendation of the select committee is not agreed to, the question shall be deemed recommitted to the select committee for further recommendation.

(c)(1) No information in the possession of the select committee relating to the lawful intelligence or intelligence-related activities of any department or agency of the United States which has been classified under established security procedures and which the select committee, pursuant to paragraphs (a) or (b) of this clause, has determined should not be disclosed shall be made available to any person by a Member, officer, or employee of the House except as provided in subparagraph (2).

(2) The select committee shall, under such regulations as the committee shall prescribe, make any information described in subparagraph (1) available to any other committee or any other Member of the House and permit any other Member of the House to attend any hearing of the committee which is closed to the public. Whenever the select committee makes such information available, the committee shall keep a written record showing, in the case of any particular information, which committee or which Members of the House received such information. No Member of the House who, and no committee which, receives any information under this subparagraph, shall disclose such information except in a closed session of the House.

(d) The Committee on Standards of Official Conduct shall investigate any unauthorized disclosure of intelligence or intelligence-related information by a Member, officer, or employee of the House in violation of paragraph (c) and report to the House concerning any allegation which it finds to be substantiated.

(e) Upon the request of any person who is subject to any such investigation, the Committee on Standards of Official Conduct shall release to such individual at the conclusion of its investigation a summary of its investigation, together with its findings. If, at the conclusion of its investigation, the Committee on Standards of Official Conduct determines that there has been a significant breach of confidentiality or unauthorized disclosure by a Member, officer, or employee of the House, it shall report its findings to the House and recommend appropriate action such as censure, removal from committee membership, or expulsion from the House, in the case of a Member, or removal from office or employment or punishment for contempt, in the case of an officer or employee.

8. The select committee is authorized to permit any personal representative of the President, designated by the President to serve as a liaison to such committee, to attend any closed meeting of such committee.

9. Subject to the rules of the House, no funds shall be appropriated for any fiscal year beginning after September 30, 1978, with the exception of a continuing bill or resolution continuing appropriations, or amendment thereto, or conference report thereon, to, or for use of, any department or agency of the United States to carry out any of the following activities, unless such funds shall have been previously author-

ized by a bill or joint resolution passed by the House during the same or preceding fiscal year to carry out such activity for such fiscal year:

(a) The activities of the Central Intelligence Agency and the Director of Central Intelligence.

(b) The activities of the Defense Intelligence Agency.

(c) The activities of the National Security Agency.

(d) The intelligence and intelligence related activities of other agencies and subdivisions of the Department of Defense.

(e) The intelligence and intelligence-related activities of the Department of State.

(f) The intelligence and intelligence-related activities of the Federal Bureau of Investigation, including all activities of the Intelligence Division.

10. (a) As used in this rule, the term "intelligence and intelligence-related activities" includes (1) the collection, analysis, production, dissemination, or use of information which relates to any foreign country, or any government, political group, party, military force, movement or other association in such foreign country, and which relates to the defense, foreign policy, national security, or related policies of the United States, and other activity which is in support of such activities; (2) activities taken to counter similar activities directed against the United States; (3) covert or clandestine activities affecting the relations of the United States with any

foreign government, political group, party, military force, movement, or other association; (4) the collection, analysis, production, dissemination, or use of information about activities of persons within the United States, its territories and possessions, or nationals of the United States abroad whose political and related activities pose, or may be considered by any department, agency, bureau, office, division, instrumentality, or employee of the United States to pose, a threat to the internal security of the United States, and covert or clandestine activities directed against such persons.

(b) As used in this rule, the term "department or agency" includes any organization, committee, council, establishment, or office within the Federal Government.

(c) For purposes of this rule, reference to any department, agency, bureau, or subdivision shall include a reference to any successor department, agency, bureau, or subdivision to the extent that such successor engages in intelligence or intelligence-related activities now conducted by the department, agency, bureau, or subdivision referred to in this rule.

11. Clause 6(a) of rule XXVIII does not apply to conference committee meetings respecting legislation (or any part thereof) reported from the Permanent Select Committee on Intelligence.

This rule was adopted on July 14, 1977 (H. Res. 658, pp. 22932–49), was amended on January 25, 1979 (H. Res. 70, p. 1023) to change the size of the Select Committee from thirteen to fourteen members, was amended in the 99th Congress to change the size to not more than sixteen mem-

bers (H. Res. 33, Jan. 30, 1985, p. 1271), was amended in the 100th Congress to change the size to not more than seventeen members and also to change the cross reference in clause 7(c)(1) to include paragraph (a) or (b) (H. Res. 5, Jan. 6, 1987, p. ——), was amended in the 101st Congress to change the size to not more than nineteen Members (H. Res. 5, Jan. 3, 1989, p. ——), and was amended on Feb. 5, 1979 to change the name of the Committee on International Relations to Foreign Affairs (H. Res. 89, pp. 1848–9). The resolution creating the Permanent Select Committee directed the committee to make a study with respect to intelligence and intelligence-related activities of the U.S. and to report
thereon, together with appropriate recommendations,
§ 944b. not later than the close of the 95th Congress (H. Res.
658, section 3; see H. Rept. 95–1795, Oct. 14, 1978),
and transferred to the Permanent Select Committee on Intelligence all records, files, documents and other materials of the Select Committee on Intelligence of the 94th Congress in the possession, custody, or control of the Clerk of the House. Clause 4 of this rule was further amended on Jan. 15, 1979 (H. Res. 5, 96th Cong., pp. 7–16) to make clause 6(c) of Rule XI applicable to salaries of the staff of the Permanent Select Committee. On March 29, 1979, clause 4 was amended again (H. Res. 165, 96th Cong., p. 6820) to make an exception to the provisions of clause 2(g)(2) of Rule XI (requiring a majority of the membership of a committee be present in order to vote to close a hearing) to allow the Select Committee to vote to go into executive session if a majority of the members present, there being in attendance the requisite number under the Select Committee rules for the purpose of taking testimony, determine that it is necessary to do so for national security reasons. In no instance could this be done by less than two members. The Select Committee was provided with permanent professional and clerical staff as provided by clauses 6 (a) and (b), Rule XI when clause 4 of this rule was amended in the 98th Congress (H. Res. 58, March 1, 1983, p. ——).

The Permanent Select Committee has concurrent jurisdiction with the Committee on the Judiciary over bills concerning electronic surveillance of foreign intelligence (Nov. 4, 1977, pp. 37070–1); concurrent jurisdiction with the Committees on Science, Space, and Technology and Foreign Affairs over a bill establishing a satellite monitoring commission (Mar. 15, 1988, p. ——); and sole jurisdiction over a resolution of inquiry directing the Secretary of Defense to furnish to the House documents and information on Cuban or other foreign military or paramilitary presence in Panama or the Canal Zone (Apr. 6, 1978, p. 9105).

Clause 7(b), Rule XLVIII places restrictions on the Select Committee on Intelligence only with respect to the public disclosure of classified information in the possession of that committee, and does not prevent the House from determining to release any matter properly presented to it in secret session pursuant to rule XXIX (Speaker pro tempore Wright, Feb. 25, 1980, p. 3618).

RULE XLIX.

ESTABLISHMENT OF STATUTORY LIMIT ON THE PUBLIC DEBT.

§945. Public Debt Limit.

1. Upon the adoption by the Congress (under section 301 or 304 of the Congressional Budget Act of 1974) of any concurrent resolution on the budget setting forth as the appropriate level of the public debt for the period to which such concurrent resolution relates an amount which is different from the amount of the statutory limit on the public debt that would otherwise be in effect for such period, the enrolling clerk of the House of Representatives shall prepare an engrossment of a joint resolution, in the form prescribed in clause 2, increasing or decreasing the statutory limit on the public debt. The vote by which the conference report on the concurrent resolution on the budget was agreed to in the House (or by which the concurrent resolution itself was adopted in the House, if there is no conference report) shall be deemed to have been a vote in favor of such joint resolution upon final passage in the House of Representatives. Upon the engrossment of such joint resolution it shall be deemed to have passed the House of Representatives and been duly certified and examined; the engrossed copy shall be signed by the Clerk and transmitted to the Senate for further legislative action; and (upon final passage by both Houses) the joint resolution shall be signed by the presiding officers of both Houses and presented to the

President for his signature (and otherwise treated for all purposes) in the manner provided for bills and joint resolutions generally.

2. The matter after the resolving clause in any joint resolution described in clause 1 shall be as follows: "That subsection (b) of section 3101 of title 31, United States Code, is amended by striking out the dollar limitation contained in such subsection and inserting in lieu thereof '$ ' ", with the blank being filled in with a limitation equal to the appropriate level of the public debt as set forth, pursuant to section 301(a)(5) of the Congressional Budget Act of 1974, in the concurrent resolution on the budget (whether such resolution was adopted under section 301, 304, or 310 of such Act). Only one joint resolution shall be prepared under clause 1 upon the adoption of any concurrent resolution on the budget; and, if the concurrent resolution set forth a different appropriate level of the public debt (pursuant to such section 301(a)(5)) for each of two separate periods, the blank referred to in the preceding sentence shall be filled in with both the limitation which is to apply for the later of the two periods (specifying the date on which that limitation is to take effect) and the limitation which is to apply for the earlier of such periods.

3. The report of the Committee on the Budget of the House of Representatives accompanying any concurrent resolution on the budget under section 301(d) of the Congressional Budget Act of 1974, as well as the joint explanatory statement

accompanying the conference report on any concurrent resolution on the budget, shall contain a clear statement of the effect under this rule that the adoption by both the House and the Senate of such concurrent resolution in the form in which it is being reported (and the adoption of the joint resolution thereupon prepared and enrolled under clause 1) would have upon the statutory limit on the public debt. It shall not be in order in the House of Representatives at any time to consider or adopt any concurrent resolution on the budget (or agree to any conference report thereon) if at that time the report accompanying such concurrent resolution (or the joint statement accompanying such conference report) does not comply with the requirements of this clause.

4. Nothing in this rule shall be construed as limiting or otherwise affecting the power of the House of Representatives or the Senate to consider and pass a bill which (without regard to the procedures under clause 1) changes the statutory limit on the public debt most recently established under this rule or otherwise; and the rights of Members and committees of the House with respect to the introduction, consideration, and reporting of any such bill shall be determined as though this rule had not been adopted.

5. As used in this rule, the term "statutory limit on the public debt" means the maximum face amount of obligations issued under authority of chapter 31 of title 31, United States Code and obligations guaranteed as to principal and

interest by the United States (except such guaranteed obligations as may be held by the Secretary of the Treasury), determined under section 3101(b) of title 31 after the application of section 3101(a), title 31 which may be outstanding at any one time.

This rule was added in the 96th Congress bv Public Law 96-78 (approved September 29, 1979, 93 Stat. 589) and was originally applicable to concurrent resolutions on the budget for fiscal years beginning on or after October 1, 1980 (fiscal 1981). However, upon the adoption of H. Res. 642 (96th Congress, April 23, 1980, p. 8800), the provisions of that public law amending the Rules of the House were made applicable to the third concurrent resolution on the budget for Fiscal Year 1980 as well as the first concurrent resolution on the budget for Fiscal 1981 (H. Con. Res. 307, June 12, 1980, pp. 14505-19; see H.J. Res. 569 and H.J. Res. 570, June 13, 1980, p. 14609). Conforming changes were made in clauses 2 and 5 of this rule with the codification of title 31, United States Code, by Public Law 97-258 (approved September 13, 1982, 96 Stat. 1066). The rule was amended in the 98th Congress (H. Res. 241, June 23, 1983, p. ——) to reflect the enactment into law (Public Law 98-34) of a new permanent, rather than temporary, debt limit. Clause 2 of the rule was rewritten, and clause 1 modified, to change the form of the joint resolution engrossed pursuant to the rule in order to delete references to a temporary debt limit and to reflect instead changes in a permanent debt limit. The rules change also provided that where a budget resolution contains more than one public debt limit figure (for the current and the next fiscal year), only one joint resolution be engrossed, containing the debt limit figure for the current fiscal year with a time limitation, and the debt limit figure for the following fiscal year as the permanent limit. The date of final House action in adopting the conference report on the concurrent resolution on the budget, rather than the date of final Senate action, when later, is the appropriate date under this rule for deeming the House to have passed the joint resolution (July 14, 1986, p. ——; Speaker Wright, June 25, 1987, p. ——). Another conforming change in clause 1 was made in the 99th Congress in P.L. 99-177 to delete reference to a second concurrent resolution on the budget (no longer required unless § 310 of the Budget Act (Dec. 12, 1985, p. 36209).

RULE L.

PROCEDURE FOR RESPONSE TO SUBPOENAS.

§ 946. Response to Subpoenas.

1. When any Member, officer, or employee of the House of Representatives is properly served with a subpoena or other judicial order directing appearance as a witness relating to the official functions of the House or for the production or disclosure of any documents relating to the official functions of the House, such Member, officer, or employee shall comply, consistently with the privileges and rights of the House, with said subpoena or other judicial order as hereinafter provided, unless otherwise determined pursuant to the provisions of this rule.

2. Upon receipt of a properly served subpoena or other judicial order directing appearance as a witness relating to the official functions of the House or for the production or disclosure of any documents relating to the official functions of the House, such Member, officer, or employee shall promptly notify, in writing, the Speaker of its receipt and such notification shall then be promptly laid before the House by the Speaker, except that during a period of recess or adjournment of longer than three days, no such notification to the House shall be required. However, upon the reconvening of the House, such notification shall then be promptly laid before the House by the Speaker.

3. Once notification has been laid before the House, the Member, officer, or employee shall

determine whether the issuance of the subpoena or other judicial order is a proper exercise of the court's jurisdiction, is material and relevant, and is consistent with the privileges and rights of the House. The Member, officer, or employee shall notify the Speaker prior to seeking judicial determination of these matters.

4. Upon determination whether the subpoena or other judicial order is a proper exercise of the court's jurisdiction, is material and relevant, and is consistent with the privileges and rights of the House, the Member, officer, or employee shall immediately notify, in writing, the Speaker of such a determination.

5. The Speaker shall inform the House of the determination of whether the subpoena or other judicial order is a proper exercise of the court's jurisdiction, is material and relevant, and is consistent with the privileges and rights of the House, and shall generally describe the records or information sought, except that during any recess or adjournment of the House for longer than three days, no such notification is required. However, upon the reconvening of the House, such notification shall then be promptly laid before the House by the Speaker.

6. Upon such notification to the House that said subpoena is a proper exercise of the court's jurisdiction, is material and relevant, and is consistent with the privileges and rights of the House, the Member, officer, or employee shall comply with such subpoena or other judicial order by supplying certified copies, unless the

House adopts a resolution to the contrary; except that under no circumstances shall any minutes or transcripts of executive sessions, or any evidence of witnesses in respect thereto, be disclosed or copied. Should the House be in recess or adjournment for longer than three days, the Speaker may authorize compliance or take such other action as he deems appropriate under the circumstances during the pendency of such recess or adjournment. And upon the reconvening of the House, all matters having transpired under this clause shall be laid promptly before the House by the Speaker.

7. A copy of this rule shall be transmitted by the Clerk of the House to any of said courts whenever any such subpoena or other judicial order is issued and served on a Member, officer, or employee of the House.

8. Nothing in this rule shall be construed to deprive, condition or waive the constitutional or legal rights applicable or available to any Member, officer, or employee of the House, or of the House itself, or the right of a Member or the House to assert such privilege or right before any court in the United States, or the right of the House thereafter to assert such privilege or immunity before any court in the United States.

Rule L was added in the 97th Congress (H. Res. 5, Jan. 5, 1981, p. 98) and provides general authority to the Members, officers, or employees to comply with subpoenas served on them in relation to their official functions and establishes the procedure by which subpoenas shall be complied with. Until the 95th Congress, whenever a Member, officer, or employee received a subpoena, the House would decide by adopting a resolution granting authority to the person to respond. This case-by-case approach was changed in the 95th (H. Res. 10, January 4, 1977, p. 73) and

96th Congresses (H. Res. 10, January 15, 1979, p. 19) when general authority was granted to respond to subpoenas and a procedure was established for automatic compliance without the necessity of a House vote. This standing authority was clarified and revised later in the 96th Congress by H. Res. 722 (September 17, 1980, pp. 25777–90) and forms the basis for the present rule.

PROVISIONS OF THE LEGISLATIVE REORGANIZATION ACT OF 1946, AS AMENDED, APPLICABLE TO BOTH HOUSES. [2 U.S.C. 198]

CONGRESSIONAL ADJOURNMENT.

§947. SEC. 132. (a) Unless otherwise provided by the Congress, the two Houses shall—(1) adjourn sine die not later than July 31 of each year; or

(2) in the case of an odd-numbered year, provide, not later than July 31 of such year, by concurrent resolution adopted in each House by rollcall vote, for the adjournment of the two Houses from that Friday in August which occurs at least thirty days before the first Monday in September (Labor Day) of such year to the second day after Labor Day.

(b) This section shall not be applicable in any year if on July 31 of such year a state of war exists pursuant to a declaration of war by the Congress.

LEGISLATIVE REORGANIZATION ACT OF 1946

§948. The present form of this Section is derived from the Legislative Reorganization Act of 1970 (84 Stat. 1140; Sec. 461). Prior to this revision, the 1946 Act (60 Stat. 812) provided for adjournment sine die of the two houses not later than the last day of July each year except during time of war or a national emergency proclaimed by the President. The Presidentially declared emergencies of May 8, 1939, and May 27, 1941, negated operation of this provision (See ruling of Speaker Rayburn, Aug. 1, 1949, p. 10486; Aug. 2, 1949, p. 10591; and Aug. 4, 1949, p. 10778), as did the later emergency declared by President Truman on Dec. 16, 1950.

The Committee on Rules has jurisdiction of matters relative to recesses and final adjournment of Congress (Rule X, clause 1(q)(3)).

§ 949

Under this provision of law, a concurrent resolution providing in an odd-numbered year for an adjournment of the two Houses from the first Friday in August until the second day after Labor Day or until notified to reassemble pursuant to a joint agreement of the Leadership of the two Houses is called up as privileged and requires a yea and nay vote for adoption (July 30, 1973, pp. 26657–8). In even-numbered years, the House has agreed to concurrent resolutions waiving the provisions of this law to provide that the two Houses shall not adjourn for more than three days or sine die until they have adopted a concurrent resolution to that effect (July 25, 1972, pp. 25145–6; July 24, 1974, p. 25008; July 29, 1982, pp. 18562, 18563; July 30, 1986, p. ——).

PRESERVATION OF COMMITTEE HEARINGS.

SEC. 141. The Librarian of the Library of Congress is authorized and directed to have bound § 949. at the end of each session of Congress the printed hearings of testimony taken by each committee of the Congress at the preceding session.

The provisions of the foregoing sections of the Legislative Reorganization Act became effective January 2, 1947, except Sec. 141 of the Act which became effective August 2, 1946.

JOINT AND SELECT COMMITTEES

JOINT COMMITTEES

ECONOMIC COMMITTEE, JOINT.

§ 983. Composed of 10 members of the Senate and 10 members of the House. The 10 Representatives are appointed by the Speaker; 6 from the majority and 4 from the minority. The Committee conducts a continuing study of matters relating to the Economic Report made by the President and studies means of promoting the national policy on employment as outlined in the Employment Act of 1946 (15 U.S.C. 1021). The committee is required to file, not later than March 1 of each year, a report with the Senate and the House containing its findings and recommendations on each of the main recommendations made by the President in the Economic Report. It is authorized to hold hearings and make other reports to the Congress and to issue a monthly publication on economic conditions (15 U.S.C. 1024-1025). The Full Employment and Balanced Growth Act of 1978 (Public Law 95-523, sec. 302) requires the Joint Committee to review and analyze the short-term and medium-term goals set forth in the Economic Report and to hold hearings on the Report to hear testimony from Members of Congress and other groups. Within 30 days after receipt of the Report by the Congress, standing committees with legislative jurisdiction and Joint Committees may submit reports to the joint committee with views and recommendations on matters within their jurisdiction. On or before each March 15, a majority of the members of the joint committee are required to submit a report to the Senate and House Budget Committees, including findings, recommendations and appropriate analyses with respect to each of the short-term and medium-term goals set forth in the Economic Report.

INTERNAL REVENUE TAXATION, JOINT COMMITTEE ON.

§ 984. Composed of 5 members of the Senate and 5 members of the House. The House members, 3 from the majority and 2 from the minority, are chosen by the Committee on Ways and Means from the membership of that Committee. The Joint Committee investigates the operation and effects of the Federal system of internal revenue taxation. It is authorized to hold hearings at times and places it deems advisable, has subpena powers, and reports to the

Committee on Ways and Means, and, in its discretion, directly to the House (26 U.S.C. 8001–8023).

LIBRARY, JOINT COMMITTEE OF CONGRESS ON THE.

§ 985. Composed of 5 members of the Senate and 5 members of the House. The Chairman of the Committee on House Administration is a member and 4 other members of that Committee are elected by House resolution. The Committee considers proposals concerning the management and expansion of the Library of Congress, the development and maintenance of the Botanic Gardens, the receipt of gifts for the benefit of the Library, and certain matters relating to placing of statues and other works of art in the Capitol (2 U.S.C. 132b).

PRINTING, JOINT COMMITTEE ON.

§ 986. Composed of 5 members of the Senate and 5 members of the House. The House elects 4 members of the Committee on House Administration to serve with the Chairman of that Committee on the Joint Committee (44 U.S.C. 101). The Committee adopts and employs measures necessary to remedy inefficiencies or waste in the public printing, binding, and distribution of Government publications. It has control of the arrangement and style of the Congressional Record (44 U.S.C. 901–910). The Joint Committee on Printing is authorized and directed to provide for printing in the Daily Record the legislative program for the day, together with a list of congressional committee meetings and hearings, and the place of meeting and subject matter; and to cause a brief résumé of congressional activities for the previous day to be incorporated in the Record, together with an index of its contents. Such data shall be prepared under the supervision of the Secretary of the Senate and the Clerk of the House of Representatives, respectively. The Joint Committee was increased from 3 Members of each House to 5 Members of each House on Feb. 17, 1981 (Public Law 97–4).

SELECT COMMITTEES

In the 101st Congress, the House adopted House Resolution 84 on February 28, 1989, to create the Select Committee on Hunger, the Select Committee on Children, Youth, and Families, and the Select Committee on Narcotics Abuse and Control, as follows:

TITLE I—SELECT COMMITTEE ON HUNGER

ESTABLISHMENT

SEC. 101. There is hereby established in the House of Representatives a select committee to be known as the Select Committee on Hunger (hereinafter in this title referred to as the "select committee").

FUNCTIONS

SEC. 102. (a) The select committee shall not have legislative jurisdiction. The select committee shall have authority—

(1) to conduct a continuing comprehensive study and review of the problems of hunger and malnutrition, including but not limited to, those issues address in the reports of the Presidential Commission on World Hunger and the Independent Commission on International Development Issues, which issues include—

(A) the United States development and economic assistance program and the executive branch structure responsible for administering the program;

(B) world food security;

(C) trade relations between the United States and less developed countries;

(D) food production and distribution;

(E) corporate agribusiness efforts to further international develpment;

(F) policies of multilateral development banks and international development institutions; and

(G) food assistance programs in the United States;

(2) to review any recommendations made by the President, or by any department or agency of the executive branch of the Federal Government, relating to programs or policies affecting hunger or malnutrition; and

(3) to recommend to the appropriate committees of the House legislation or other action the select committee considers necessary with respect to programs or policies affecting hunger or malnutrition.

(b) Nothing contained in this title shall be construed to limit or alter the legislative and oversight jurisdiction of any standing committee of the House under rule X of the Rules of the House of Representatives.

APPOINTMENT AND MEMBERSHIP

SEC. 103. (a) The select committee shall be composed of thirty Members of the House, who shall be appointed by the Speaker, one of whom he shall designate as chairman.

(b) Any vacancy occurring in the membership of the select committee shall be filled in the same manner in which the original appointment was made.

(c) For purposes of this section, the term "Members" shall include any Representative in, or Delegate or Resident Commissioner to, the House of Representatives.

AUTHORITY AND PROCEDURES

SEC. 104. (a) For the purpose of carrying out this title, the select committee is authorized to sit and act during the present Congress at such times and places within the United States, including any Commonwealth or possession thereof, or elsewhere, whether the House is in session, has recessed, or has adjourned, and to hold such hearings as it deems necessary.

(b) The provisions of clauses 1, 2, and 3 of rule XI of the Rules of the House of Representatives shall apply to the select committee except the provisions of clause 2(m)(1)(B) of rule XI relating to subpoena power.

(c) Nothing contained in subsection (a) of this section shall be construed to limit the applicability of clause 2(i) of rule XI of the Rules of the House of Representatives to the select committee.

ADMINISTRATIVE PROVISIONS

SEC. 105. (a) Subject to the adoption of expense resolutions as required by clause 5 of rule XI of the Rules of the House of Representatives, the select committee may incur expenses in connection with its duties under this title.

(b) In carrying out its functions under this title, the select committee is authorized—

(1) to appoint, either on a permanent basis or as experts or consultants, such staff as the select committee considers necessary;

(2) to utilize the services of the staffs of those committees of the House from which Members have been selected for membership on the select committee;

(3) to prescribe the duties and responsibilities of such staff;

(4) to fix the compensation of such staff at a single per annum gross rate which does not exceed the highest rate of basic pay, as in effect from time to time, of level V of the Executive Schedule in section 5316 of title 5, United States Code;

(5) to terminate the employment of any such staff as the select committee considers appropriate; and

(6) to reimburse members of the select committee and of its staff for travel, subsistence, and other necessary expenses incurred by them in the performance of their duties and responsibilities for the select committee, other than expenses in connection with any meeting of the select committee held in the District of Columbia.

REPORTS AND RECORDS

SEC. 106. (a) The select committee shall submit an annual report to the House which shall include a summary of the activities of the select committee during the calendar year to which the report applies.

(b) Any such report which is made when the House is not in session shall be filed with the Clerk of the House.

(c) The records, files, and materials of the select committee shall be transferred to the Clerk of the House.

TITLE II—SELECT COMMITTEE ON CHILDREN, YOUTH, AND FAMILIES

ESTABLISHMENT

SEC. 201. There is hereby established in the House of Representatives a select committee to be known as the Select Committee on Children, Youth, and Families (hereinafter in this title referred to as the "select committee").

FUNCTIONS

SEC. 202. (a) The select committee shall not have legislative jurisdiction. The select committee shall have authority—

(1) to conduct a continuing comprehensive study and review of the problems of children, youth, and families, including but not limited to income maintenance, health (including medical and child development research), nutrition, education, welfare, employment, and recreation;

(2) to study the use of all practical means and methods of encouraging the development of public and private programs and policies which will assist American children and youth in taking a full part in national life and becoming productive citizens; and

(3) to develop policies that would encourage the coordination of both governmental and private programs designed to address the problems of childhood and adolescence.

(b) Nothing contained in this title shall be construed to limit or alter the legislative and oversight jurisdiction of any standing committee of the House under rule X of the Rules of the House of Representatives.

APPOINTMENT AND MEMBERSHIP

SEC. 203. (a) The select committee shall be composed of no more than thirty Members of the House, who shall be appointed by the Speaker, and one of whom he shall designate as chairman.

(b) Any vacancy occurring in the membership of the select committee shall be filled in the same manner in which the original appointment was made.

(c) For purposes of this section, the term "Members" shall include any Representative in, or Delegate or Resident Commissioner to, the House of Representatives.

AUTHORITY AND PROCEDURES

Sec. 204. (a) For the purpose of carrying out its responsibilities under this title, the select committee is authorized to sit and act during the present Congress at such times and places within the United States, including any Commonwealth or possession thereof, or elsewhere, whether the House is in session, has recessed, or has adjourned, and to hold such hearings as it deems necessary.

(b) The provisions of clauses 1, 2, and 3 of rule XI of the Rules of the House of Representatives shall apply to the select committee.

(c) Nothing contained in subsection (a) of this section shall be construed to limit the applicability of clause 2(i) of rule XI of the Rules of the House of Representatives to the select committee.

ADMINISTRATIVE PROVISIONS

Sec. 205. (a) Subject to the adoption of expense resolutions as required by clause 5 of rule XI of the Rules of the House of Representatives, the select committee may incur expenses in connection with its duties under this title.

(b) In carrying out its functions under this title, the select committee is authorized—

(1) to appoint, either on a permanent basis or as experts or consultants, such staff as the select committee considers necessary;

(2) to utilize the services of the staffs of those committees of the House from which Members have been selected for membership on the select committee;

(3) to prescribe the duties and responsibilities of such staff;

(4) to fix the compensation of such staff at a single per annum gross rate which does not exceed the highest rate of basic pay, as in effect from time to time, of level V of the Executive Schedule in section 5316 of title 5, United States Code;

(5) to terminate the employment of any such staff as the select committee considers appropriate; and

(6) to reimburse members of the select committee and of its staff for travel, subsistence, and other necessary expenses incurred by them in the performance of their duties and responsibilities for the select committee, other than expenses in connection with any meeting of the select committee held in the District of Columbia.

REPORT AND RECORDS

SEC. 206. (a) The select committee shall report to the House as soon as practicable during the present Congress, the results of its investigation and study, together with such recommendations as it deems advisable.

(b) Any such report which is made when the House is not in session shall be filed with the Clerk of the House.

(c) Any such report shall be referred to the committee or committees having jurisdiction over the subject matter thereof.

(d) The records, files, and materials of the select committee shall be transferred to the Clerk of the House.

TITLE III—SELECT COMMITTEE ON NARCOTICS ABUSE AND CONTROL

ESTABLISHMENT

SEC. 301. There is hereby established in the House of Repesentatives a select committee to be known as the Select Committee on Narcotics Abuse and Control (hereinafter in this title referred to as the "select committee").

FUNCTIONS

SEC. 302. The select committee shall not have legislative jurisdiction. The select committee shall have authority—

(1) to conduct a continuing oversight and review of the problems of narcotics, drug, and polydrug abuse and control, including (but not limited to) the study and review of (A) the abuse and control of opium and its derivatives, other narcotic drugs, psychotropics, and other controlled substances, as defined in the Comprehensive Drug Abuse Prevention and Control Act of 1970, and any such drug or substance when used in combination with any other substance; (B) domestic and international trafficking, manufacturing, and distribution; (C) treatment, prevention, and rehabilitation; (D) narcotics-related violations of the Internal Revenue Code of 1986; (E) international treaties and agreements relating to the control of narcotics and drug abuse; (F) the role of organized crime in narcotics and drug abuse; (G) problems of narcotics and drug abuse and control in the Armed Forces of the United States; (H) problems of narcotics and drug abuse and control in industry; and (I) the approach of the criminal justice system with respect to narcotics and drug law violations and crimes related to drug abuse;

(2) to review any recommendations made by the President, or by any department or agency of the executive branch of the Federal Government, relating to programs or policies affecting narcotics or drug abuse or control; and

(3) to recommend to the appropriate committees of the House legislation or other action the select committee considers necessary

with respect to programs or policies affecting narcotics or drug abuse or control.

APPOINTMENT AND MEMBERSHIP

SEC. 303. (a) The select committee shall be composed of thirty Members of the House, who shall be appointed by the Speaker, one of whom he shall designate as chairman. At least one member of the select committee shall be chosen from each of the following committees of the House: The Committee on Agriculture, the Committee on Armed Services, the Committee on Government Operations, the Committee on Foreign Affairs, the Committee on Energy and Commerce, the Committee on the Judiciary, the Committee on Merchant Marine and Fisheries, the Committee on Veterans' Affairs, and the Committee on Ways and Means.

(b) Any vacancy occurring in the membership of the select committee shall be filled in the same manner in which the original appointment was made.

(c) For purposes of this section, the term "Members" shall include any Representative in, or Delegate or Resident Commissioner to, the House of Representatives.

AUTHORITY AND PROCEDURES

SEC. 304. (a) For the purpose of carrying out this title, the select committee is authorized to sit and act during the present Congress at such times and places within the United States, including any Commonwealth or possession thereof, or elsewhere, whether the House is in session, has recessed, or has adjourned, and to hold such hearings as it deems necessary.

(b) The provisions of clauses 1, 2, and 3 of rule XI of the Rules of the House of Representatives shall apply to the select committee.

ADMINISTRATIVE PROVISIONS

SEC. 305. (a) Subject to the adoption of expense resolutions as required by clause 5 of rule XI of the Rules of the House of Representatives, the select committee may incur expenses in connection with its duties under this title.

(b) In carrying out its functions under this title, the select committee is authorized—

(1) to appoint, either on a permanent basis or as experts or consultants, such staff as the select committee considers necessary;

(2) to prescribe the duties and responsibilities of such staff;

(3) to fix the compensation of such staff at a single per annum gross rate which does not exceed the highest rate of basic pay, as in effect from time to time, of level V of the Executive Schedule in section 5316 of title 5, United States Code;

(4) to terminate the employment of any such staff as the select committee considers appropriate; and

(5) to reimburse members of the select committee and of its staff for travel, subsistence, and other necessary expenses incurred by them in the performance of their duties and responsibilities for the select committee, other than expenses in connection with any meeting of the select committee held in the District of Columbia.

REPORTS

SEC. 306. (a)(1) The select committee shall report to the House with respect to the results of any field investigation or inspection it conducts.

(2) The select committee shall submit an annual report to the House which shall include a summary of the activities of the select committee during the calendar year to which the report applies.

(3) The select committee shall report to the House its recommendations for a comprehensive program to control the worldwide problem of drug abuse and drug trafficking.

(b) Any such report which is made when the House is not in session shall be filed with the Clerk of the House.

SERVICES TO MEMBERS

HOUSE OFFICES AND COMMISSIONS

SERVICES TO MEMBERS

§ 987. Franking.

Members may send through the mails, under their frank, certain documents and materials as provided by 39 U.S.C. 3210 et seq. subject to the limitations prescribed in Rule XLVI, supra.

§ 988. Room assignments.

Rooms in the office buildings of the House of Representatives are assigned to Members pursuant to the law of May 28, 1908 (40 U.S.C. 177-184) and pursuant to regulations of the House Office Building Commission (Speaker O'Neill, June 19, 1978, pp. 18209-10).

§ 989. General Accounting Office.

The preparation, utilization, and distribution (to committees and members) of reports by the General Accounting Office, and its authority to assign its employees to duty with congressional committees, are regulated by the Legislative Reorganization Act of 1970, sections 231-236 (84 Stat. 1140; 31 U.S.C. 1172-1176).

§ 990. Consultants and training.

Committees may, with the approval of the Committee on House Administration, procure the temporary or intermittent services of consultants and obtain specialized training for professional staff, subject to expense resolutions, under the Legislative Reorganization Act of 1970, sections 303 and 304 (84 Stat. 1140; 2 U.S.C. 72a (i) and (j)).

§ 991. Congressional Research Service.

The organization of the Congressional Research Service of the Library of Congress and its responsibilities to assist Members and committees were provided in the Legislative Reorganization Acts of 1946 and 1970 (60 Stat. 836; 84 Stat. 1140; 2 U.S.C. 166).

§ 992. Legislative Counsel.

The Office of the Legislative Counsel of the House of Representatives evolved from a single Legislative Drafting Service established for the Congress by the Act of February 24, 1919 (40 Stat. 1057, 1141). The currently applicable provisions of law setting forth the purpose and functions of the Office and providing for its administration are contained in title V of the Legislative Reorganization Act of 1970 (Public Law 91-510; 2 U.S.C 281 et seq.) as amended by the Legislative Branch Appropriation Act, 1972 (Public Law 92-51). As stated in section 502 of such title V, the purpose of the Office is to advise and assist the House of Representatives, and its committees and Members, in the achievement of a clear, faithful, and coherent expression of legislative policies.

§ 993. Legislative Classification Office.

The Legislative Classification Office, to develop a system for linking Federal programs to authorizing statutes, was authorized by the Committee Reform Amendments of 1974, section 203 (H. Res. 988, 93d Congress), as made permanent law by Public Law 93-554 (88 Stat. 1777, 2 U.S.C. 286).

§ 994. Law Revision Counsel.

The Office of the Law Revision Counsel, to develop a codification of the laws of the United States, was authorized by the Committee Reform Amendments of 1974, section 205 (H. Res. 988, 93d Congress), as made permanent law by Public Law 93-544 (88 Stat. 1777; 2 U.S.C. 285).

§ 995. Technology assessment.

The Office of Technology Assessment, to assist the Congress in indicating the beneficial and adverse impacts of the application of technology, was authorized by the Technology Assessment Act of 1971, Public Law 92-484 (86 Stat. 797; 2 U.S.C. 472 et seq.).

§ 996. Office of the Parliamentarian.

While a Parliamentarian has been appointed by the Speaker in every Congress since 1927, the House formally and permanently established in the 95th Congress an Office of the Parliamentarian, to be managed, supervised and administered by a non-partisan Parliamentarian to be appointed by the Speaker (H. Res. 502, Apr. 20, 1977, p. 11415, as made permanent law by Public Law 95-94, sec. 115). The compilation and preparation of the precedents of the House of Representatives is authorized by section 208 of the Committee Reform Amendments of 1974 (H. Res. 998, 93d Congress, as made permanent law by Public Law 93-544, 2 U.S.C. 28a), and the printing and distribution of the precedents were authorized by Public Law 94-551, 90 Stat. 2537. See also 2 U.S.C. 28, 29.

§ 996a. Office for the Bicentennial, and Historian of the House.

The Office for the Bicentennial was established in the 97th Congress as a new clause 10 of Rule I (H. Res. 621, Dec. 17, 1982, p. 31951). The Office coordinates the planning of the commemoration of the two-hundredth anniversary of the House of Representatives. The management, supervision, and administration of the Office is under the direction of the Speaker and is staffed by a professional historian to be appointed by the Speaker on a non-partisan basis. The Office was removed from the standing rules and established by law in P.L. 98-367. The Office will cease to exist on September 30, 1989. On January 3, 1989, an office to be known as the Office of the Historian of the House of Representatives was established in a new clause 10 of Rule I (H. Res. 5, 101st Congress, p. ——).

EARLY ORGANIZATION OF THE HOUSE

[From H.Res. 988, 93rd Cong., as Made Permanent Law in (88 Stat. 1777; 2 U.S.C. 29a]

§ 997. (a)(1) The majority leader or minority leader of the House of Representatives after consultation with the Speaker may at any time during any even-numbered year call a caucus or conference, to begin on or after the first day of December and conclude on or before the twentieth day of December in such year and to be attended by all incumbent Members of his or her political party who have been reelected to the ensuing Congress and all other Members-elect of such party, for the purpose of taking all steps necessary to achieve the prompt organization of the Members and Members-elect of such party for the ensuing Congress.

(2) If the majority leader or minority leader calls an organizational caucus or conference under paragraph (1), he or she shall file with the Clerk of the House a written notice designating the date upon which the caucus or conference is to convene. As soon as possible after the election of Members to the ensuing Congress, the Clerk shall furnish each Member-elect of the party involved with appropriate written notification of the caucus or conference.

(3) If a vacancy occurs in the office of majority leader or minority leader during any even-numbered year (and has not been filled), the chairman of the caucus or conference of the party involved for the current Congress may call an organizational caucus or conference under paragraph (1) by filing written notice thereof as provided by paragraph (2).

(b)(1)(A) Each Member-elect (other than an incumbent Member reelected to the ensuing Congress) who attends a caucus or conference called under subsection (a), and each incumbent Member reelected to the ensuing Congress who attends any such caucus or conference convening after the adjournment sine die of the Congress in the year involved, shall be paid for one round trip between his or her place of residence in the district which he or she represents and Washington, District of Columbia, for the purpose of attending such caucus or conference. Payment shall be made through the issuance of a transportation request form to each such Member-elect or incumbent Member by the Finance Office of the House before such caucus or conference.

(B) Each Member-elect (other than an incumbent Member reelected to the ensuing Congress) who attends a caucus or conference called under subsection (a) shall in addition be reimbursed on a per diem or other basis for expenses incurred in connection with his or her attendance at such caucus or conference for a period not to exceed the shorter of the following—

(i) the period beginning with the day before the designated date upon which such caucus or conference is to convene and ending with the day after the date of the final adjournment of such caucus or conference; or

(ii) fourteen days.

(2) Payments and reimbursements to Members-elect under paragraph (1) shall be made as provided (with respect to Members) in the regulations prescribed by the Committee on House Administration with respect to travel and other expenses of committees and Members. Reimbursements shall be paid on special voucher forms prescribed by the Committee on House Administration.

(c) The contingent fund of the House is made available to carry out the purposes of this section.

[FROM H. RES. 10, 94TH CONG., JAN. 14, 1975, AS MADE PERMANENT LAW BY PUBLIC LAW 94–59 (89 STAT. 269; 2 U.S.C. 29A(B))]

Resolved, That (a) each Member-elect (other than an incumbent Member reelected to the ensuing Congress) who attends a caucus or conference called under section 202(a) of House Resolution 988, Ninety-third Congress, and each incumbent Member reelected to the ensuing Congress who attends any such caucus or conference convening after the adjournment sine die of the Congress in the year involved, shall be entitled to designate one staff person to be paid for one round trip between that person's place of residence, provided such place of residence is in the district which the Member-elect or incumbent Member represents, and Washington, District of Columbia, for the purpose of accompanying that Member-elect or incumbent Member to such caucus or conference.

(b) Each Member-elect (other than an incumbent Member reelected to the ensuing Congress) who attends a caucus or conference called under such section 202(a) shall be entitled to designate one staff person who shall in addition be reimbursed on a per diem or other basis for expenses incurred in accompanying the Member-elect at the time of such caucus or conference for a period not to exceed the shorter of the following—

(i) the period beginning with the day before the designated date upon which such caucus or conference is to convene and ending with the day after the date of the final adjournment of such caucus or conference; or

(ii) fourteen days.

SEC. 2. (a) Payments and reimbursements to staff persons under the first section of this resolution shall be made as provided (with respect to staff) in the regulations prescribed by the Committee on House Administration with respect to travel and other expenses of staff. Reimbursements shall be paid on special voucher forms prescribed by the Committee on House Administration.

(b) Additional funds, if any, for staff allowances and office space for use by Members-elect (other than an incumbent Member reelected to the ensuing Congress) shall be authorized by the Committee on House Administration.

CONGRESSIONAL BUDGET ACT

[From the Congressional Budget Act of 1974 (88 Stat. 297) as amended by Public Law 99-177 (99 Stat. 1037), and by Public Law 100-119 (101 Stat. 754), 2 U.S.C. 621-661]

DEFINITIONS

Sec. 3. (a) In General.—For purposes of this Act—

(1) The terms "budget outlays" and "outlays" mean, with respect to any fiscal year, expenditures and net lending of funds under budget authority during such year.

(2) The term "budget authority" means authority provided by law to enter into obligations which will result in immediate or future outlays involving Government funds or to collect offsetting receipts, except that such term does not include authority to insure or guarantee the repayment of indebtedness incurred by another person or government.

§ 1007.

(3) The term "tax expenditures" means those revenue losses attributable to provisions of the Federal tax laws which allow a special exclusion, exemption, or deduction from gross income or which provide a special credit, a preferential rate of tax, or a deferral of tax liability; and the term "tax expenditures budget" means an enumeration of such tax expenditures.

(4) The term "concurrent resolution on the budget" means—

(A) a concurrent resolution setting forth the congressional budget for the United States Government for a fiscal year as provided in section 301; and

(B) any other concurrent resolution revising the congressional budget for the United States Government for a fiscal year as described in section 304.

(5) The term "appropriation Act" means an Act referred to in section 105 of title 1, United States Code.

(6) The term "deficit" means, with respect to any fiscal year, the amount by which total budget outlays for such fiscal year exceed total revenues for such fiscal year. In

calculating the deficit for purposes of comparison with the maximum deficit amount under the Balanced Budget and Emergency Deficit Control Act of 1985 and in calculating the excess deficit for purposes of sections 251 and 252 of such Act (notwithstanding section 710(a) of the Social Security Act), for any fiscal year, the receipts of the Federal Old-Age and Survivors Insurance Trust Fund and the Federal Disability Insurance Trust Fund for such fiscal year and the taxes payable under sections 1401(a), 3101(a), and 3111(a) of the Internal Revenue Code of 1954 during such fiscal year shall be included in total revenues for such fiscal year, and the disbursements of each such Trust Fund for such fiscal year shall be included in total budget outlays for such fiscal year. Notwithstanding any other provision of law except to the extent provided by section 710(a) of the Social Security Act, the receipts, revenues, disbursements, budget authority, and outlays of each off-budget Federal entity for a fiscal year shall be included in total budget authority, total budget outlays, and total revenues and the amounts of budget authority and outlays set forth for each major functional category, for such fiscal year. Amounts paid by the Federal Financing Bank for the purchase of loans made or guaranteed by a department, agency, or instrumentality of the Government of the United States shall be treated as outlays of such department, agency, or instrumentality.

(7) The term "maximum deficit amount" means—

(A) with respect to the fiscal year beginning October 1, 1985, $171,900,000,000;

(B) with respect to the fiscal year beginning October 1, 1986, $144,000,000,000;

(C) with respect to the fiscal year beginning October 1, 1987, $144,000,000,000;

(D) with respect to the fiscal year beginning October 1, 1988, $136,000,000,000;

(E) with respect to the fiscal year beginning October 1, 1989, $100,000,000,000;

(F) with respect to the fiscal year beginning October 1, 1990, $64,000,000,000;

(G) with respect to the fiscal year beginning October 1, 1991, $28,000,000,000; and

(H) with respect to the fiscal year beginning October 1, 1992, zero.

(8) The term "off-budget Federal entity" means any entity (other than a privately owned Government-sponsored entity)—

(A) which is established by Federal law, and

(B) the receipts and disbursements of which are required by law to be excluded from the totals of—

(i) the budget of the United States Government submitted by the President pursuant to section 1105 of title 31, United States Code, or

(ii) the budget adopted by the Congress pursuant to title III of this Act.

(9) The term "entitlement authority" means spending authority described by section 401(c)(2)(C).

(10) The term "credit authority" means authority to incur direct loan obligations or to incur primary loan guarantee commitments.

The "Balanced Budget and Emergency Deficit Control Act of 1985" (Title II of Publc Law 99-177, 99 Stat. 1037) modified paragraphs (2) and (4) of this section as well as adding new paragraphs (6) through (10), effective for fiscal years beginning after September 30, 1985 with paragraph (7) and the second sentence of paragraph (6) to expire on September 30, 1991. Public Law 100-119 changed the maximum deficit levels in paragraph (7) and extended the expiration date of the second sentence of paragraph (6) until September 30, 1993.

The liquidating cash accounts in the Department of Transportation Appropriation bill are not new budget authority within the meaning of this section, but are merely funds to liquidate contractual obligations previously incurred pursuant to new discretionary contract authority previously reported from and scored against allocations to the Committee on Public Works and Transportation as "the authority to enter into obligations which will result in immediate or future outlays" (July 30, 1986, p. ——).

TITLE III—CONGRESSIONAL BUDGET PROCESS

TIMETABLE

SEC. 300. The timetable with respect to the congressional budget process for any fiscal year is as follows:

On or before:	Action to be completed:
First Monday after January 3	President submits his budget.
February 15	Congressional Budget Office submits report to Budget Committees.
February 25	Committees submit views and estimates to Budget Committees.
April 1	Senate Budget Committee reports concurrent resolution on the budget.
April 15	Congress completes action on concurrent resolution on the budget.

On or before:	Action to be completed:
May 15	Annual appropriation bills may be considered in the House.
June 10	House Appropriations Committee reports last annual appropriation bill.
June 15	Congress completes action on reconciliation legislation.
June 30	House completes action on annual appropriation bills.
October 1	Fiscal year begins.

ANNUAL ADOPTION OF CONCURRENT RESOLUTION ON THE BUDGET

SEC. 301. (a) CONTENT OF CONCURRENT RESOLUTION ON THE BUDGET.—On or before April 15 of each year, the Congress shall complete action on a concurrent resolution on the budget for the fiscal year beginning on October 1 of such year. The concurrent resolution shall set forth appropriate levels for the fiscal year beginning on October 1 of such year, and planning levels for each of the two ensuing fiscal years, for the following—

(1) totals of new budget authority, budget outlays, direct loan obligations, and primary loan guarantee commitments;

(2) total Federal revenues and the amount, if any, by which the aggregate level of Federal revenues should be increased or decreased by bills and resolutions to be reported by the appropriate committees;

(3) the surplus or deficit in the budget;

(4) new budget authority, budget outlays, direct loan obligations, and primary loan guarantee commitments for each major functional category, based on allocations of the total levels set forth pursuant to paragraph (1); and

(5) the public debt.

(b) ADDITIONAL MATTERS IN CONCURRENT RESOLUTION.—The concurrent resolution on the budget may—

(1) set forth, if required by subsection (f), the calendar year in which, in the opinion of the Congress, the goals for reducing unemployment set forth in section 4(b) of the Employment Act of 1946 should be achieved;

(2) include reconciliation directives described in section 310;

(3) require a procedure under which all or certain bills or resolutions providing new budget authority or new entitlement authority for such fiscal year shall not be enrolled until the Congress has completed action on any reconciliation bill or reconciliation resolution or both required by such concurrent resolution to be reported in accordance with section 310(b); and

(4) set forth such other matters, and require such other procedures, relating to the budget, as may be appropriate to carry out the purposes of this Act.

Public Law 99-177 amended Title III in its entirety with the changes generally effective for fiscal years beginning after September 30, 1985. Contents of concurrent resolutions on the budget prescribed by the prior version of section 301 evolved as follows: The first concurrent resolution on the budget for fiscal year 1981 (also containing the third concurrent resolution on the budget for fiscal year 1980, budget targets for fiscal years 1981 and 1983, and other related matters) contained new provisions directing House and Senate Committees to report to their respective Budget Committees reconciliation legislation reducing spending for fiscal year 1981 (pursuant to the authority to include other "appropriate procedures" under then sec. 301(b)(2) of the Budget Act) (H. Con. Res. 307, June 12, 1980, pp. 14505-19). The final adoption of that concurrent resolution also had the effect of triggering provisions of Rule XLIX, adopted in the 96th Congress, requiring the automatic engrossment of a joint resolution or joint resolutions setting the public debt limit (see note to Rule XLIX, supra). The first concurrent resolution on the budget for fiscal year 1982, in addition to other new "appropriate procedures" not herein described, included in its reconciliation instructions directions to several House and Senate committees to report reductions in both entitlement spending authority and in discretionary authorization programs sufficient to reduce budget authority and outlays separately for each of three fiscal years and included in a "deferred enrollment" procedure relating to bills containing new budget authority and entitlement spending authority exceeding allocation to committees (H. Con. Res. 115, May 20, 1981, p. 10309). The first concurrent resolution on the budget for fiscal year 1983, in addition to other new "appropriate procedures" not herein described, included a binding Federal credit budget for two fiscal years containing not only aggregate and functional category targets for new direct loan obligations and new primary and secondary loan guarantee commitments, but also (a) prohibiting consideration of bills authorizing new loan obligations or new loan guarantee commitments not subject to the appropriations process with certain exceptions (now sec. 402(a)), and (b) establishing a ceiling on total new direct loan obligations and new primary or secondary loan guarantee commitments for the ensuing fiscal year upon adoption of second concurrent resolution on the budget for that year similar to the section 311 ceiling for direct budget authority. Also included was a prohibition against consideration in either House of measures providing new budget or entitlement spending authority until the reporting committee had filed its section 302(b) allocation report in the House (now sec. 302(c)), and a direction that if a second concurrent resolution on the budget for fiscal 1983 was not finally adopted by October 1, then the aggregate amounts in that first concurrent resolution would become the spending ceilings and revenue floor for the purposes of section 311 (S. Con. Res. 92, June 22, 1982, p. 14542). The first concurrent resolution on the budget for fiscal year 1984 also contained the latter provision, but also provided that a point of order under section 311 of the Budget Act would not apply if spending contained in a bill remained within the reporting committee's discretionary allocation under section 302 of the Budget Act (a similar exception is now sec. 311(b)). The 1984 resolution also contained a new provision reserving specific amounts of budget authority and outlays for subsequent allocation to committees by the Committee on the Budget (H. Con. Res. 91, June 23, 1983, p. ——) (see also Mar. 6, 1984, p. ——, for a statement by Speaker O'Neill describing the operation and effect of the latter provision). The first concurrent resolution on the budget for fiscal year 1985 included a similar provision that it be treated as the second budget resolution for that year on October 1, 1984, for the purposes of the section 311 spending ceilings and revenue levels, but that a point of order not apply where the committee in question had not exceeded its section 302(a) allocations. The resolution also provided that legislation providing budget authority, entitlement spending or credit authority not be considered until the reporting committee had filed its assigned section 302(b) allocations (H. Con. Res. 280, Oct. 1, 1984, p. ——).

In 1986, the first concurrent resolution on the budget since the enactment of P.L. 99-177, the recommended deficit level for the ensuing fiscal year 1987 was below the maximum deficit amount as specified in sec. 3(7)(B), thus permitting consideration of the conference reported amendment in disagreement pursuant to sec. 301(i) without a three-fifths vote waiver in either House (June 26, 1986, p. ——). That concurrent resolution also contained a "contingency fund" for deficit reduction and unmet critical needs, additional general revenue sharing funding beyond levels contained therein if deficits not increased and authorization is enacted, and a provision authorizing a report to be filed by the Chairman of the House Budget Committee by a date certain to be printed and to constitute allocations of new budget authority and outlays required by sec. 302(a) (where the conferees did not have time to prepare allocations prior to filing of the conference report).

(c) CONSIDERATION OF PROCEDURES OR MATTERS WHICH HAVE THE EFFECT OF CHANGING ANY RULE OF THE HOUSE OF REPRESENTATIVES.—If the Committee on the Budget of the House of Representatives reports any concurrent resolution on the budget which includes any procedure or matter which has the effect of changing any rule of the House of Representatives, such concurrent resolution shall then be referred to the Committee on Rules with instructions to report it within five calendar days (not counting any day on which the House is not in session). The Committee on Rules shall have jurisdiction to report any concurrent resolution referred to it under this paragraph with an amendment or amendments changing or striking out any such procedure or matter.

(d) Views and Estimates of Other Committees.—On or before February 25 of each year, each committee of the House of Representatives having legislative jurisdiction shall submit to the Committee on the Budget of the House and each committee of the Senate having legislative jurisdiction shall submit to the Committee on the Budget of the Senate its views and estimates (as determined by the committee making such submission) with respect to all matters set forth in subsections (a) and (b) which relate to matters within the jurisdiction or functions of such committee. The Joint Economic Committee shall submit to the Committees on the Budget of both Houses its recommendations as to the fiscal policy appropriate to the goals of the Employment Act of 1946. Any other committee of the House of Representatives or the Senate may submit to the Committee on the Budget of its House, and any joint committee of the Congress may submit to the Committees on the Budget of both Houses, its views and estimates with respect to all matters set forth in subsections (a) and (b) which relate to matters within its jurisdiction or functions.

(e) Hearings and Report.—In developing the concurrent resolution on the budget referred to in subsection (a) for each fiscal year, the Committee on the Budget of each House shall hold hearings and shall receive testimony from Members of Congress and such appropriate representatives of Federal departments and agencies, the general public, and national organizations as the committee deems desirable. Each of the recommendations as to short-term and medium-term goals set forth in the report submitted by the members of the Joint Economic Committee under subsection (d) may be considered by the Committee on the Budget of each House as part of its consideration of such concurrent resolution, and its report may reflect its views thereon, including its views on how the estimates of revenues and levels of budget authority and outlays set forth in such concurrent resolution are designed to achieve any goals it is recommending. The report accompanying such concurrent resolution shall include, but not be limited to—

(1) a comparison of revenues estimated by the committee with those estimated in the budget submitted by the President;

(2) a comparison of the appropriate levels of total budget outlays and total new budget authority, total direct loan obligations, total primary loan guarantee commitments, as set forth in such concurrent resolution, with those estimated or requested in the budget submitted by the President;

(3) with respect to each major functional category, an estimate of budget outlays and an appropriate level of new budget authority for all proposed programs and for all existing programs (including renewals thereof), with the estimate and level for existing programs being divided between permanent authority and funds provided in appropriation Acts, and with each such division being subdivided between controllable amounts and all other amounts;

(4) an allocation of the level of Federal revenues recommended in the concurrent resolution among the major sources of such revenues;

(5) the economic assumptions and objectives which underlie each of the matters set forth in such concurrent resolution and any alternative economic assumptions and objectives which the committee considered;

(6) projections (not limited to the following), for the period of five fiscal years beginning with such fiscal year, of the estimated levels of total budget outlays and total new budget authority, the estimated revenues to be received, and the estimated surplus or deficit, if any, for each fiscal year in such period, and the estimated levels of tax expenditures (the tax expenditures budget) by major functional categories;

(7) a statement of any significant changes in the proposed levels of Federal assistance to State and local governments;

(8) information, data, and comparisons indicating the manner in which, and the basis on which, the committee determined each of the matters set forth in the concurrent resolution; and

(9) allocations described in section 302(a).

(f) ACHIEVEMENT OF GOALS FOR REDUCING UNEMPLOYMENT.—

(1) If, pursuant to section 4(c) of the Employment Act of 1946, the President recommends in the Economic Report that the goals for reducing unemployment set forth in section 4(b) of such Act be achieved in a year after the close of the five-year period prescribed by such subsection, the concurrent resolution on the budget for the fiscal year beginning after the date on which such Economic Report is received by the Congress may set forth the year in which, in the opinion of the Congress, such goals can be achieved.

(2) After the Congress has expressed its opinion pursuant to paragraph (1) as to the year in which the goals for reducing unemployment set forth in section 4(b) of the Employment Act of 1946 can be achieved, if, pursuant to section 4(e) of such Act, the President recommends in the Economic Report that such goals be achieved in a year which is different from the year in which the Congress has expressed its opinion that such goals should be achieved, either in its action pursuant to paragraph (1) or in its most recent action pursuant to this paragraph, the concurrent resolution on the budget for the fiscal year beginning after the date on which such Economic Report is received by the Congress may set forth the year in which, in the opinion of the Congress, such goals can be achieved.

(3) It shall be in order to amend the provision of such resolution setting forth such year only if the amendment thereto also proposes to alter the estimates, amounts, and levels (as described in subsection (a)) set forth in such resolution in germane fashion in order to be consistent with the economic goals (as described in sections 3(a)(2) and 4(b) of the Employment Act of 1946) which such amendment proposes can be achieved by the year specified in such amendment.

(g) ECONOMIC ASSUMPTIONS.—

(1) It shall not be in order in the Senate to consider any concurrent resolution on the budget for a fiscal year, or any amendment thereto, or any conference report thereon, that sets forth amounts and levels that are determined on the basis of more than one set of economic and technical assumptions.

(2) The joint explanatory statement accompanying a conference report on a concurrent resolution on the budget shall set forth the common economic assump-

tions upon which such joint statement and conference report are based, or upon which any amendment contained in the joint explanatory statement to be proposed by the conferees in the case of technical disagreement, is based.

(3) Subject to periodic reestimation based on changed economic conditions or technical estimates, determinations under titles III and IV of the Congressional Budget Act of 1974 shall be based upon such common economic and technical assumptions.

(h) BUDGET COMMITTEES CONSULTATION WITH COMMITTEES.—The Committee on the Budget of the House of Representatives shall consult with the committees of its House having legislative jurisdiction during the preparation, consideration, and enforcement of the concurrent resolution on the budget with respect to all matters which relate to the jurisdiction or functions of such committees.

(i) MAXIMUM DEFICIT AMOUNT MAY NOT BE EXCEEDED.—

(1)(A) Except as provided in paragraph (2), it shall not be in order in either the House of Representatives or the Senate to consider any concurrent resolution on the budget for a fiscal year under this section, or to consider any amendment to such a concurrent resolution, or to consider a conference report on such a concurrent resolution, if the level of total budget outlays for such fiscal year that is set forth in such concurrent resolution or conference report exceeds the recommended level of Federal revenues set forth for that year by an amount that is greater than the maximum deficit amount for such fiscal year as determined under section 3(7), or if the adoption of such amendment would result in a level of total budget outlays for that fiscal year which exceeds the recommended level of Federal revenues for that fiscal year, by an amount that is greater than the maximum deficit amount for such fiscal year as determined under section 3(7).

(B) In the House of Representatives the point of order established under subparagraph (A) with respect to the consideration of a conference report or with respect to the consideration of a motion to concur, with or without an amendment or amendments, in a Senate amendment, the stage of disagreement having been reached, may be waived only by a vote of three-fifths of the Members present and voting, a quorum being present.

(2)(A) Paragraph (1) of this subsection shall not apply if a declaration of war by the Congress is in effect.

(B) Paragraph (1) shall not apply to the consideration of any concurrent resolution on the budget for fiscal year 1988 or fiscal year 1989, or amendment thereto or conference report thereon, if such concurrent resolution or conference report provides, or in the case of an amendment if the concurrent resolution as changed by the adoption of such amendment would provide for deficit reduction from a budget baseline estimate as specified in section 251(a)(6) of the Balanced Budget and Emergency Deficit Control Act of 1985 for such fiscal year (based on laws in effect on January 1 of the calendar year during which the fiscal year begins) equal to or greater than the maximum amount of unachieved deficit reduction for such fiscal year as specified in section 251(a)(3)(A) of such Act.

(C) For purposes of the application of subparagraph (B), the amount of deficit reduction for a fiscal year provided for in a concurrent resolution, or amendment thereto or conference report thereon, shall be determined on the basis of estimates made by the Committee on the Budget of the House of Representatives or of the Senate, as the case may be.

Public Law 99-177 modified this portion of sec. 301 by (1) inserting a new subsection (c) on referral of budget resolutions to the Rules Committee; (2) amending and redesignating existing subsections (c), (d) and (e) as (d), (e) and (f); (3) adding new subsections (g), (h) and (i); and (4) in sec. 271(b) of that law, providing that this subsection can be waived or suspended in the Senate only by an affirmative vote of three-fifths of the Members sworn. Public Law 100-119 amended subsections (g) and (i), and extended the point of order under (i) until September 30, 1993. Previously, the Full Employment and Balanced Growth Act of 1978 (P.L. 95-523, sec. 303 and 304) amended this section by (1) adding a new paragraph (6) to subsection (a) and redesignating the following paragraph (both repealed by P.L. 99-177); (2) adding a new second sentence to subsection (c) (now contained in subsection (d)) and (3) adding a new subsection (e) (now (f)), relating to the review of the Economic Report as part of the Congressional Budget Process, and allowing the inclusion in the budget resolution of a timetable for achieving unemployment goals under the Employment Act of 1946.

The House and Senate completed final action on the first concurrent resolution on the budget considered under the Congressional Budget Act by adopting a conference report thereon on May 14, 1975, p. 14329. That concurrent resolution contained aggregate figures only for revenues, budget authority, budget outlays, deficit and public debt, since the Budget Committee has not implemented, for fiscal year 1976, that portion of the Budget Act dealing with functional categories.

On May 13, 1976, the House and Senate completed final action on the first concurrent resolution for fiscal year 1977, the first year of full implementation of Title III of the Congressional Budget Act. May 13, 1976, p. 13776.

COMMITTEE ALLOCATIONS

SEC. 302. (a) ALLOCATION OF TOTALS.—

(1) For the House of Representatives, the joint explanatory statement accompanying a conference report on a concurrent resolution on the budget shall include an estimated allocation, based upon such concurrent resolution as recommended in such conference report, of the appropriate levels of total budget outlays, total new budget authority, total entitlement authority, and total credit authority among each committee of the House of Representatives which has jurisdiction over laws, bills and resolutions providing such new budget authority, such entitlement authority, or such credit authority. The allocation shall, for each committee, divide new budget authority, entitlement authority, and credit authority between amounts provided or required by law on the date of such conference report (mandatory or uncontrollable amounts), and amounts not so provided or required (discretionary or controllable amounts), and shall make the same division for estimated outlays that would result from such new budget authority.

(2) For the Senate, the joint explanatory statement accompanying a conference report on a concurrent resolution on the budget shall include an estimated allocation, based upon such concurrent resolution as recommended in such conference report, of the appropriate levels of total budget outlays, total new budget authority and new credit authority among each committee of the House of Representatives and the Senate which has jurisdiction over bills and resolutions providing such new budget authority.

(b) REPORTS BY COMMITTEES.—As soon as practicable after a concurrent resolution on the budget is agreed to—

(1) the Committee on Appropriations of each House shall, after consulting with the Committee on Appropriations of the other House, (A) subdivide among its subcommittees the allocation of budget outlays, new budget authority and new credit authority allocated to it in the joint explanatory statement accompanying the conference report on such concurrent resolution, and (B) further subdivide the amount with respect to each such subcommittee between controllable amounts and all other amounts; and

(2) every other committee of the House and Senate to which an allocation was made in such joint explanatory statement shall, after consulting with the committee or committees of the other House to which all or part of its allocation was made, (A) subdivide such allocation among its subcommittees or among programs over which it has jurisdiction, and (B) further subdivide the amount with respect to each subcommittee or program between controllable amounts and all other amounts.

Each such committee shall promptly report to its House the subdivisions made by it pursuant to this subsection.

(c) POINT OF ORDER.—It shall not be in order in the House of Representatives or the Senate to consider any bill or resolution, or amendment thereto, providing—

(1) new budget authority for a fiscal year;

(2) new spending authority as described in section 401(c)(2) for a fiscal year; or

(3) new credit authority for a fiscal year;

within the jurisdiction of any committee which has received an appropriate allocation of such authority pursuant to subsection (a) for such fiscal year, unless and until such committee makes the allocation or subdivisions required by subsection (b), in connection with the most recently agreed to concurrent resolution on the budget for such fiscal year.

(d) SUBSEQUENT CONCURRENT RESOLUTIONS.—In the case of a concurrent resolution on the budget referred to in section 304, the allocations under subsection (a) and the subdivisions under subsection (b) shall be required only to the extent necessary to take into account revisions made in the most recently agreed to concurrent resolution on the budget.

(e) ALTERATION OF ALLOCATIONS.—At any time after a committee reports the allocations required to be made under subsection (b), such committee may report to its

House an alteration of such allocations. Any alteration of such allocations must be consistent with any actions already taken by its House on legislation within the committee's jurisdiction.

(f) LEGISLATION SUBJECT TO POINT OF ORDER.—

(1) IN THE HOUSE OF REPRESENTATIVES.—After the Congress has completed action on a concurrent resolution on the budget for a fiscal year, it shall not be in order in the House of Representatives to consider any bill, resolution, or amendment providing new budget authority for such fiscal year, new entitlement authority effective during such fiscal year, or new credit authority of such fiscal year, or any conference report on any such bill or resolution if—

(A) the enactment of such bill or resolution as reported;

(B) the adoption and enactment of such amendment; or

(C) the enactment of such bill or resolution in the form recommended in such conference report,

would cause the appropriate allocation made pursuant to subsection (b) for such fiscal year of new discretionary budget authority, new entitlement authority, or new credit authority to be exceeded.

(2) IN THE SENATE.—At any time after the Congress has completed action on the concurrent resolution on the budget required to be reported under section 301(a) for a fiscal year, it shall not be in order in the Senate to consider any bill or resolution (including a conference report thereon), or any amendment to a bill or resolution, that provides for budget outlays or new budget authority in excess of the appropriate allocation of such outlays or authority reported under subsection (b) in connection with the most recently agreed to concurrent resolution on the budget for such fiscal year.

(g) DETERMINATIONS BY BUDGET COMMITTEES.—For purposes of this section, the levels of new budget authority, spending authority as described in section 401(c)(2), outlays, and new credit authority for a fiscal year shall be determined on the basis of estimates made by the Committee on the Budget of the House of Representatives or the Senate, as the case may be.

Section 302 was amended by Public Law 99–177 to (1) add the appropriate levels of total entitlement authority and total credit authority to the allocation required by subsection (a), with all levels further divided into mandatory and discretionary amounts; (2) add new credit authority to the allocation required of the Appropriations Committees by (b)(1); (3) redesignate subsection (c) as (d); and (4) add new subsections (c), (e), (f), and (g). Subsections (c), (f), and (g) became effective on April 15, 1986. Section 271(b) of that law provides that subsection (f) can be waived or suspended in the Senate only by an affirmative vote of three-fifths of the Members sworn.

Amendments to an appropriation bill, making a series of figure changes intended to offset each other and considered en bloc, are subject to points of order under section 302(f) where the intended reductions in new discretionary budget authority fail to offset increases in such authority, so that the net effect of the amendments is to cause the bill to exceed the appropriate allocation made pursuant to section 302(b) for the fiscal year of new discretionary budget authority (July 30, 1986, p. ——). An amendment that provides no new budget authority or outlays but instead results in outlay savings is not subject to a point of order under section 302(f) (June 30, 1987, p. ——).

Points of order under section 302(c) apply separately to the consideration of bills and amendments. Thus a waiver of points of order against consideration of an appropriation bill prior to the filing of a report from the Committee on Appropriations allocating new budget authority among its subcommittees does not extend to an amendment providing new budget authority in addition to the amounts contained in the bill. (July 13, 1987, p. ——).

CONCURRENT RESOLUTION ON THE BUDGET MUST BE ADOPTED BEFORE LEGISLATION PROVIDING NEW BUDGET AUTHORITY, NEW SPENDING AUTHORITY, NEW CREDIT AUTHORITY, OR CHANGES IN REVENUES OR THE PUBLIC DEBT LIMIT IS CONSIDERED

SEC. 303. (a) IN GENERAL.—It shall not be in order in either the House of Representatives or the Senate to consider any bill or resolution (or amendment thereto) as reported to the House or Senate which provides—

(1) new budget authority for a fiscal year;

(2) an increase or decrease in revenues to become effective during a fiscal year;

(3) an increase or decrease in the public debt limit to become effective during a fiscal year;

(4) new entitlement authority to become effective during a fiscal year; or

(5) new credit authority for a fiscal year,

until the concurrent resolution on the budget for such fiscal year has been agreed to pursuant to section 301.

(b) EXCEPTIONS.—Subsection (a) does not apply to any bill or resolution—

(1) providing new budget authority which first becomes available in a fiscal year following the fiscal year to which the concurrent resolution applies; or

(2) increasing or decreasing revenues which first become effective in a fiscal year following the fiscal year to which the concurrent resolution applies.

After May 15 of any calendar year, subsection (a) does not apply in the House of Representatives to any general appropriation bill, or amendment thereto, which provides new budget authority for the fiscal year beginning in such calendar year.

(c) WAIVER IN THE SENATE.—

(1) The committee of the Senate which reports any bill or resolution (or amendment thereto) to which subsection (a) applies may at or after the time it reports such bill or resolution (or amendment), report a resolution to the Senate (A) providing for the waiver of subsection (a) with respect to such bill or resolution (or amendment), and (B) stating the reasons why the waiver is necessary. The resolution shall then be referred to the Committee on the Budget of the Senate. That committee shall report the resolution to the Senate within 10 days after the resolution is referred to it (not counting any day on which the Senate is not in session) beginning with the day following the day on which it is so referred, accompanied by that committee's recommendations and reasons for such recommendations with respect to the resolution. If the committee does not report the resolution within such 10-day period, it shall automatically be discharged from further consideration of the resolution and the resolution shall be placed on the calendar.

(2) During the consideration of any such resolution, debate shall be limited to one hour, to be equally divided between, and controlled by, the majority leader and minority leader or their designees, and the time on any debatable motion or appeal shall be limited to twenty minutes, to be equally divided between, and controlled by, the mover and the manager of the resolution. In the event the manager of the resolution is in favor of any such motion or appeal, the time in opposition thereto shall be controlled by the minority

leader or his designee. Such leaders, or either of them, may, from the time under their control on the passage of such resolution, allot additional time to any Senator during the consideration of any debatable motion or appeal. No amendment to the resolution is in order.

(3) If, after the Committee on the Budget has reported (or been discharged from further consideration of) the resolution, the Senate agrees to the resolution, then subsection (a) shall not apply with respect to the bill or resolution (or amendment thereto) to which the resolution so agreed to applies.

Public Law 99-177 amended section 303 by (1) adding the phrase "as reported to the House or Senate"; (2) modifying paragraph (4) to apply to new entitlement authority; and (3) by adding paragraph (5), all in subsection (a), and, in subsection (b), by adding the May 15th exception for general appropriation bills. A conference report containing new revenue sharing spending authority in the form of entitlements (under section 401(c)(2)(C) of the Congressional Budget Act) to become effective in fiscal years 1978 through 1980 in amounts increased over that in fiscal year 1977 was ruled out on a point of order under section 303(a) of the Budget Act, since the first concurrent resolution on the budget for those future fiscal years had not yet been adopted and the increased entitlements could not be considered merely continuations of entitlement authority which became effective in fiscal year 1977 (for which a concurrent resolution had been adopted), and since the section 303(b) exception, permitting certain advance budget authority, does not apply to bills or amendments containing new entitlement authority as described in section 401(c)(2)(C) of the Budget Act. Speaker Albert, Sept. 30, 1976, pp. 34074-5.

In the Senate, the Chair indicated in response to a parliamentary inquiry that an amendment providing new entitlement authority to become effective in fiscal year 1978, in the form of supplemental security income benefits, would violate section 303(a) of the Budget Act since the concurrent resolution on the budget for that fiscal year had not yet been adopted. Presiding Officer Stone, Oct. 1, 1976, pp. 34554-7. Similarly, an amendment in the Senate to a Defense Department authorization bill, providing a new entitlement program of educational assistance to members and veterans of the armed forces, to become effective in a future fiscal year, was held to provide new entitlement spending before the adoption of the budget resolution for that year, and was held to violate section 303(a) of the Budget Act (July 13, 1983, p. ——). A similar amendment was held to violate section 303 of the Budget Act in the Senate in the 2d session of the 98th Congress (June 13, 1984, p. ——). An amendment providing new budget authority for a fiscal year, before adoption of a budget resolution for that year, was held to violate section 303 of the

Budget Act (where points of order under that section had been waived against the appropriation bill then pending but not against amendments) (Aug. 1, 1984, p. ——; July 17, 1985, p. 19435 and p. 19463) (amendment contained in motion to recommit with instructions).

To a bill providing eligibility for certain entitlement benefits to become effective in the fiscal year for which a budget resolution had been adopted, an amendment allowing a deduction in computing household income to determine eligibility effective in the next following fiscal year, to reflect changes in shelter and utility costs, was ruled out on a point of order as providing new entitlement authority to become effective in a fiscal year for which a concurrent resolution on the budget had not been adopted in violation of section 303(a)(4) of the Budget Act (July 27, 1977, pp. 25222-3).

An amendment imposing fees on generated electric energy to be deposited in a trust fund and effective in the ensuing fiscal year was ruled out of order as a violation of section 303(a)(3) as an increase in revenues becoming effective in the ensuing fiscal year for which no budget resolution had been adopted (July 23, 1985, p. 20041).

The Committee on the Budget of the House of Representatives determined, as stated in its second report on the implementation of congressional budget procedures for fiscal year 1976 (Oct. 8, 1975, H. Rept. No. 94-457), that the section 303(b) exemption for certain advance budget or revenue authority ceases to apply with the beginning of the fiscal year in question; therefore on or after October 1, 1975, the beginning of fiscal year 1976, budget authority or revenue measures to become effective in fiscal year 1977, could no longer be considered under the 303(b) exception but would have to await final adoption in May of the first concurrent resolution on the budget for fiscal 1977. But the Senate in the 95th Congress overruled on appeal the decision of the Presiding Officer which had held that the section 303(b) exemption ceased to apply after the beginning of the fiscal year (Oct. 1, 1978) preceding the fiscal year (beginning Oct. 1, 1979) for which revenue changes were proposed (Oct. 5, 1978), pp. 33945-50).

PERMISSIBLE REVISIONS OF CONCURRENT RESOLUTIONS ON THE BUDGET

SEC. 304. (a) IN GENERAL.—At any time after the concurrent resolution on the budget for a fiscal year has been agreed to pursuant to section 301, and before the end of such fiscal year, the two Houses may adopt a concurrent resolution on the budget which revises or reaffirms the concurrent resolution on the budget for such fiscal year most recently agreed to.

(b) MAXIMUM DEFICIT AMOUNT MAY NOT BE EXCEEDED.—The provisions of section 301(i) shall apply with respect to concurrent resolutions on the budget under this section (and amendments thereto and conference reports thereon) in the same way they apply to concurrent resolutions on the budget under such section 301(i) (and amendments thereto and conference reports thereon).

(c) Economic Assumptions.—The provisions of section 301(g) shall apply with respect to concurrent resolutions on the budget under this section (and amendments thereto and conference reports thereon) in the same way they apply to concurrent resolutions on the budget under such section 301(g) (and amendments thereto and conference reports thereon).

Subsection (b) was added by Public Law 99-177; and section 271(b) of that law provides that subsection (b) can be waived or suspended in the Senate only by an affirmative vote of three-fifths of the Senators sworn. Subsection (c) was added by Public Law 100-119.

PROVISIONS RELATING TO THE CONSIDERATION OF CONCURRENT RESOLUTIONS ON THE BUDGET

Sec. 305. (a) Procedure in House of Representatives After Report of Committee; Debate.—

(1) When the Committee on the Budget of the House of Representatives has reported any concurrent resolution on the budget, it is in order at any time after the fifth day (excluding Saturdays, Sundays, and legal holidays) following the day on which the report upon such resolution by the Committee on the Budget has been available to Members of the House and, if applicable, after the first day (excluding Saturdays, Sundays, and legal holidays) following the day on which a report upon such resolution by the Committee on Rules pursuant to section 301(c) has been available to Members of the House (even though a previous motion to the same effect has been disagreed to) to move to proceed to the consideration of the concurrent resolution. The motion is highly privileged and is not debatable. An amendment to the motion is not in order, and it is not in order to move to reconsider the vote by which the motion is agreed to or disagreed to.

(2) General debate on any concurrent resolution on the budget in the House of Representatives shall be limited to not more than 10 hours, which shall be divided equally between the majority and minority parties, plus such additional hours of debate as are con-

sumed pursuant to paragraph (3). A motion further to limit debate is not debatable. A motion to recommit the concurrent resolution is not in order, and it is not in order to move to reconsider the vote by which the concurrent resolution is agreed to or disagreed to.

(3) Following the presentation of opening statements on the concurrent resolution on the budget for a fiscal year by the chairman and ranking minority member of the Committee on the Budget of the House, there shall be a period of up to four hours for debate on economic goals and policies.

(4) Only if a concurrent resolution on the budget reported by the Committee on the Budget of the House sets forth the economic goals (as described in sections 3(a)(2) and 4(b) of the Full Employment Act of 1946) which the estimates, amounts, and levels (as described in section 301(a)) set forth in such resolution are designed to achieve, shall it be in order to offer to such resolution an amendment relating to such goals, and such amendment shall be in order only if it also proposes to alter such estimates, amounts, and levels in germane fashion in order to be consistent with the goals proposed in such amendment.

(5) Consideration of any concurrent resolution on the budget by the House of Representatives shall be in the Committee of the Whole, and the resolution shall be considered for amendment under the five-minute rule in accordance with the applicable provisions of rule XXIII of the Rules of the House of Representatives. After the Committee rises and reports the resolution back to the House, the previous question shall be considered as ordered on the resolution and any amendments thereto to final passage without intervening motion; except that it shall be in order at any time prior to final passage (notwithstanding any other rule or provision of law) to adopt an amendment (or a series of amendments) changing any figure or figures in the resolution as so reported to the extent necessary to achieve mathematical consistency.

(6) Debate in the House of Representatives on the conference report on any concurrent resolution on the budget shall be limited to not more than 5 hours, which shall be divided equally between the majority and minority parties. A motion further to limit debate is not debatable. A motion to recommit the conference report is not in order, and it is not in order to move to

reconsider the vote by which the conference report is agreed to or disagreed to.

(7) Appeals from decisions of the Chair relating to the application of the Rules of the House of Representatives to the procedure relating to any concurrent resolution on the budget shall be decided without debate.

Public Law 99-177 amended section 305 in several places, with the most important changes being the reduction in the availability requirement for the Budget Committee's report on a budget resolution from ten to five days and the additional one day availability requirement for the report from the Committee on Rules. The Full Employment and Balanced Growth Act of 1978 (Pub. L. 95-523, sec. 303(b)) amended this subsection by adding subparagraphs 305(a) (3) and (4), and making conforming changes, relating to debate and amendments on economic goals and policies during consideration of the first concurrent resolution on the budget in the House (a similar addition was made in sec. 305(b) (3) and (4) relating to Senate procedure). During the four hours of general debate on economic goals and policies provided for on a concurrent resolution on the budget by section 305(a)(3) of the Congressional Budget Act (as amended by the Full Employment and Balanced Growth Act of 1978), the debate must be confined to the subject of such goals and policies (Apr. 23, 1980, p. 8815).

Clause 8, Rule XXIII as added in the 95th Congress (H. Res. 5, Jan. 4, 1977, pp. 53-70) requires that any concurrent resolution on the budget (consisting of both aggregate totals and functional categories) be considered as read and open to amendment at any point, and unanimous consent is required to read such a concurrent resolution by section (in order to allow amendments to aggregates to be considered before amendments to functional categories) (May 2, 1978, pp. 12074-5). Clause 8, Rule XXIII was further amended in the 96th Congress (H. Res. 5, Jan. 4, 1979, pp. 7-16) to require that amendments to budget resolutions achieve mathematial consistency and contain all the matter set forth in subsections 301(a) (1) through (5). On one occasion, the Chairman of the Committee on the Budget offered a perfecting amendment to the concurrent resolution on the budget in Committee of the Whole, rather than in the House, to achieve "mathematical consistency". Apr. 29, 1976, p. 11916.

Where there was pending in Committee of the Whole a perfecting amendment to a concurrent resolution on the budget changing several figures therein, the Chair indicated that adoption of that amendment would preclude further amendment merely changing those amended figures but would not preclude more comprehensive amendments changing other portions of the resolution which had not been amended. Apr. 28, 1976, p. 11599.

While under this paragraph there can be up to five hours of debate on a conference report on a concurrent resolution on the budget, where the conferees report in total disagreement, debate on the motion to dispose of the amendment in disagreement is under the "hour rule" and is equally divided and controlled between the majority and minority parties, under Rule XXVIII, clause 2(b). May 13, 1976, p. 13756; Sept. 16, 1976, p. 30182.

For the first time, in the 96th Congress, the Committee on Rules reported and the House adopted a special order permitting only certain designated amendments to be offered to a concurrent resolution on the budget (H. Res. 642, Apr. 23, 1980, pp. 8789–90). Subsequent "modified closed rules" governing consideration of concurrent resolutions on the budget were adopted by the House on April 30, 1981 (H. Res. 134), p. 7993, and on May 21, 1982 (H. Res. 345), p. 11085 in the 97th Congress, and on Mar. 22, 1983 (H. Res. 144), p. 6469 in the 98th Congress. The latter resolution, while waiving the 10-day layover requirement of section 305(a)(1) of the Budget Act, was construed not to have separately waived the second sentence of clause 2(l)(6) of Rule XI requiring the availability of committee reports to Members for three days (Speaker pro tempore Bennett, Mar. 22, 1983, p. 6503). Similar rules were adopted on May 22, 1985 (H. Res. 177), p. 13001, May 14, 1986 (H. Res. 455), p. ——, Apr. 8, 1987 (H. Res. 139), p. ——, and Mar. 23, 1988 (H. Res. 410), p. ——.

(b) PROCEDURE IN SENATE AFTER REPORT OF COMMITTEE; DEBATE; AMENDMENTS.—

(1) Debate in the Senate on any concurrent resolution on the budget, and all amendments thereto and debatable motions and appeals in connection therewith, shall be limited to not more than 50 hours, except that with respect to any concurrent resolution referred to in section 304(a) all such debate shall be limited to not more than 15 hours. The time shall be equally divided between, and controlled by, the majority leader and the minority leader or their designees.

(2) Debate in the Senate on any amendment to a concurrent resolution on the budget shall be limited to 2 hours, to be equally divided between, and controlled by, the mover and the manager of the concurrent resolution, and debate on any amendment to an amendment, debatable motion, or appeal shall be limited to 1 hour, to be equally divided between, and controlled by, the mover and the manager of the concurrent resolution, except that in the event the manager of the concurrent resolution is in favor of any such amendment, motion, or appeal, the time in opposition thereto shall be controlled by the minority leader or his designee. No amendment that is not germane to

the provisions of such concurrent resolution shall be received. Such leaders, or either of them, may, from the time under their control on the passage of the concurrent resolution, allot additional time to any Senator during the consideration of any amendment, debatable motion, or appeal.

(3) Following the presentation of opening statements on the concurrent resolution on the budget for a fiscal year by the chairman and ranking minority member of the Committee on the Budget of the Senate, there shall be a period of up to four hours for debate on economic goals and policies.

(4) Subject to the other limitations of this Act, only if a concurrent resolution on the budget report by the Committee on the Budget of the Senate sets forth the economic goals (as described in sections 3(a)(2) and 4(b) of the Employment Act of 1946) which the estimates, amounts, and levels (as described in section 301(a)) set forth in such resolution are designed to achieve, shall it be in order to offer to such resolution an amendment relating to such goals, and such amendment shall be in order only if it also proposes to alter such estimates, amounts, and levels in germane fashion in order to be consistent with the goals proposed in such amendment.

(5) A motion to further limit debate is not debatable. A motion to recommit (except a motion to recommit with instructions to report back within a specified number of days, not to exceed 3, not counting any day on which the Senate is not in session) is not in order. Debate on any such motion to recommit shall be limited to 1 hour, to be equally divided between, and controlled by, the mover and the manager of the concurrent resolution.

(6) Notwithstanding any other rule, an amendment or series of amendments to a concurrent resolution on the budget proposed in the Senate shall always be in order if such amendment or series of amendments proposes to change any figure or figures then contained in such concurrent resolution so as to make such concurrent resolution mathematically consistent or so as to maintain such consistency.

(c) ACTION ON CONFERENCE REPORTS IN THE SENATE.—

(1) The conference report on any concurrent resolution on the budget shall be in order in the Senate at any time after the third day (excluding Saturdays,

Sundays, and legal holidays) following the day on which such conference report is reported and is available to Members of the Senate. A motion to proceed to the consideration of the conference report may be made even though a previous motion to the same effect has been disagreed to.

(2) During the consideration in the Senate of the conference report on any concurrent resolution on the budget and all amendments in disagreement, and all amendments thereto, and debatable motions and appeals in connection therewith, debate shall be limited to 10 hours, to be equally divided between, and controlled by, the majority leader and minority leader or their designees. Debate on any debatable motion or appeal related to the conference report shall be limited to 1 hour, to be equally divided between, and controlled by, the mover and the manager of the conference report.

(3) Should the conference report be defeated, debate on any request for a new conference and the appointment of conferees shall be limited to 1 hour, to be equally divided between, and controlled by, the manager of the conference report and the minority leader or his designee, and should any motion be made to instruct the conferees before the conferees are named, debate on such motion shall be limited to one-half hour, to be equally divided between, and controlled by, the mover and the manager of the conference report. Debate on any amendment to any such instructions shall be limited to 20 minutes, to be equally divided between and controlled by the mover and the manager of the conference report. In all cases when the manager of the conference report is in favor of any motion, appeal, or amendment, the time in opposition shall be under the control of the minority leader or his designee.

(4) In any case in which there are amendments in disagreement, time on each amendment shall be limited to 30 minutes, to be equally divided between, and controlled by, the manager of the conference report and the minority leader or his designee. No amendment that is not germane to the provisions of such amendments shall be received.

(d) REQUIRED ACTION BY CONFERENCE COMMITTEE.—If at the end of 7 days (excluding Saturdays, Sundays, and legal holidays) after the conferees of both Houses have been appointed to a committee of conference on a concurrent resolution on the budget, the conferees are unable to reach agreement with respect to all matters in disagreement between the two Houses, then the conferees shall submit to their respective Houses, on the first day thereafter on which their House is in session—

(1) a conference report recommending those matters on which they have agreed and reporting in disagreement those matters on which they have not agreed; or

(2) a conference report in disagreement, if the matter in disagreement is an amendment which strikes out the entire text of the concurrent resolution and inserts a substitute text.

(e) CONCURRENT RESOLUTION MUST BE CONSISTENT IN THE SENATE.—It shall not be in order in the Senate to vote on the question of agreeing to—

(1) a concurrent resolution on the budget unless the figures then contained in such resolution are mathematically consistent; or

(2) a conference report on a concurrent resolution on the budget unless the figures contained in such resolution, as recommended in such conference report, are mathematically consistent.

LEGISLATION DEALING WITH CONGRESSIONAL BUDGET MUST BE HANDLED BY BUDGET COMMITTEES

SEC. 306. No bill or resolution, and no amendment to any bill or resolution, dealing with any matter which is within the jurisdiction of the Committee on the Budget of either House shall be considered in that House unless it is a bill or resolution which has been reported by the Committee on the Budget of that House (or from the consideration of which such committee has been discharged) or unless it is an amendment to such a bill or resolution.

A special order of business adopted by the House providing for consideration of an unreported concurrent resolution on the budget upon the Speaker's declaration of the House being resolved into the Committee of the Whole has the effect of discharging the Budget Committee when so announced by the Speaker, and need not contain the term "discharge" or waive points of order under this section, since the concurrent resolution is effectively discharged consistent with, and not in violation of, this section (Speaker pro tempore Kildee, March 13, 1986, p. ——).

In the Senate, to an omnibus revenue bill reported from the Senate Committee on Finance containing certain tax credits, an amendment expressing the sense of Congress that under the Congressional Budget Act process the continuation of tax credits would be offset by reductions in Federal spending was held to violate section 306 of the Budget Act and was ruled out of order. Presiding Officer Morgan, June 18, 1976, pp. 19089–97. In the Senate, to a bill making comprehensive amendments to the Social Security Act, an amendment removing social security trust funds from the "unified budget" and establishing separate aggregate and functional categories in all concurrent resolutions on the budget for social security trust funds was held to be a matter within the jurisdiction of the Senate Budget Committee and to violate section 306 of the Budget Act (Presiding Officer Goldwater, Mar. 22, 1983, p 6590).

HOUSE COMMITTEE ACTION ON ALL APPROPRIATION BILLS TO BE COMPLETED BY JUNE 10

SEC. 307. On or before June 10 of each year, the Committee on Appropriations of the House of Representatives shall report annual appropriation bills providing new budget authority under the jurisdiction of all of its subcommittees for the fiscal year which begins on October 1 of that year.

This section was re-written by Public Law 99–177 to establish June 10th as the annual target date for completion of House committee action on all regular appropriation bills.

REPORTS, SUMMARIES, AND PROJECTIONS OF CONGRESSIONAL BUDGET ACTIONS

SEC. 308. (a) REPORTS ON LEGISLATION PROVIDING NEW BUDGET AUTHORITY, NEW SPENDING AUTHORITY, OR NEW CREDIT AUTHORITY, OR PROVIDING AN INCREASE OR DECREASE IN REVENUES OR TAX EXPENDITURES.—

(1) Whenever a committee of either House reports to its House a bill or resolution, or committee amendment thereto, providing new budget authority (other than continuing appropriations), new spending authority described in section 401(c)(2), or new credit authority, or providing an increase or decrease in revenues or tax expenditures for a fiscal year, the report accompanying that bill or resolution shall contain a statement, or the committee shall make available such a statement in the case of an approved committee amendment which is not reported to its House, prepared after consultation with the Director of the Congressional Budget Office—

(A) comparing the levels in such measure to the appropriate allocations in the reports submitted under section 302(b) for the most recently agreed to concurrent resolution on the budget for such fiscal year;

(B) including an identification of any new spending authority described in section 401(c)(2) which is contained in such measure and a justification for the use of such financing method instead of annual appropriations;

(C) containing a projection by the Congressional Budget Office of how such measure will affect the levels of such budget authority, budget outlays, spending authority, revenues, tax expenditures, direct loan obligations, or primary loan guarantee commitments under existing law for such fiscal year and each of the four ensuing fiscal years, if timely submitted before such report is filed; and

(D) containing an estimate by the Congressional Budget Office of the level of new budget authority for assistance to State and local governments provided by such measure, if timely submitted before such report is filed.

(2) Whenever a conference report is filed in either House and such conference report or any amendment reported in disagreement or any amendment contained in the joint statement of managers to be proposed by the conferees in the case of technical disagreement on such bill or resolution provides new budget authority (other than continuing appropriations), new spending authority described in section 401(c)(2), or new credit authority, or provides an increase or decrease in revenues for a fiscal year, the statement of managers accompanying such conference report shall contain the information described in paragraph (1), if available on a timely basis. If such information is not available when the conference report is filed, the committee shall make such information available to Members as soon as practicable prior to the consideration of such conference report.

(b) UP-TO-DATE TABULATIONS OF CONGRESSIONAL BUDGET ACTION.—

(1) The Director of the Congressional Budget Office shall issue to the committees of the House of Representatives and the Senate reports on at least a monthly basis detailing and tabulating the progress of con-

gressional action on bills and resolutions providing new budget authority, new spending authority described in section 401(c)(2), or new credit authority, or providing an increase or decrease in revenues or tax expenditures for a fiscal year. Such reports shall include but are not limited to an up-to-date tabulation comparing the appropriate aggregate and functional levels (including outlays) included in the most recently adopted concurrent resolution on the budget with the levels provided in bills and resolutions reported by committees or adopted by either House or by the Congress, and with the levels provided by law for the fiscal year preceding such fiscal year.

(2) The Committee on the Budget of each House shall make available to Members of its House summary budget scorekeeping reports. Such reports—

(A) shall be made available on at least a monthly basis, but in any case frequently enough to provide Members of each House an accurate representation of the current status of congressional consideration of the budget;

(B) shall include, but are not limited to, summaries of tabulations provided under subsection (b)(1); and

(C) shall be based on information provided under subsection (b)(1) without substantive revision.

The chairman of the Committee on the Budget of the House of Representatives shall submit such reports to the Speaker.

(c) FIVE-YEAR PROJECTION OF CONGRESSIONAL BUDGET ACTION.—As soon as practicable after the beginning of each fiscal year, the Director of the Congressional Budget Office shall issue a report projecting for the period of 5 fiscal years beginning with such fiscal year—

(1) total new budget authority and total budget outlays for each fiscal year in such period;

(2) revenues to be received and the major sources thereof, and the surplus or deficit, if any, for each fiscal year in such period;

(3) tax expenditures for each fiscal year in such period;

(4) entitlement authority for each fiscal year in such period; and

(5) credit authority for each fiscal year in such period.

Public Law 99-177 expanded the scope of the comparisons required by subsection (a) to include this information in reports on legislation providing new spending authority, new credit authority and changes in revenues as well as legislation providing budget authority and tax expenditures required by the previous version of the subsection. That law also added the requirement that the same information be available to Members prior to consideration of such conference reports or amendments in disagreement, as well as adding subsections (b) and (c).

HOUSE APPROVAL OF REGULAR APPROPRIATION BILLS

SEC. 309. It shall not be in order in the House of Representatives to consider any resolution providing for an adjournment period of more than three calendar days during the month of July until the House of Representatives has approved annual appropriation bills providing new budget authority under the jurisdiction of all the subcommittees of the Committee on Appropriations for the fiscal year beginning on October 1 of such year. For purposes of this section, the chairman of the Committee on Appropriations of the House of Representatives shall periodically advise the Speaker as to changes in jurisdiction among its various subcommittees.

Section 309 was amended by Public Law 99-177 to establish this new point of order against consideration of an adjournment resolution of more than three days during July unless the House has passed all of the regular annual appropriation bills. See also section 310(f)(2).

RECONCILIATION

SEC. 310. (a) INCLUSION OF RECONCILIATION DIRECTIVES IN CONCURRENT RESOLUTIONS ON THE BUDGET.—A concurrent resolution on the budget for any fiscal year, to the extent necessary to effectuate the provision and requirements of such resolution, shall—

(1) specify the total amount by which—

(A) new budget authority for such fiscal year;

(B) budget authority initially provided for prior fiscal years;

(C) new entitlement authority which is to become effective during such fiscal year; and

(D) credit authority for such fiscal year,

contained in laws, bills, and resolutions within the jurisdiction of a committee, is to be changed and direct that committee to determine and recommend changes to accomplish a change of such total amount;

(2) specify the total amount by which revenues are to be changed and direct that the committees having jurisdiction to determine and recommend changes in the revenue laws, bills, and resolutions to accomplish a change of such total amount;

(3) specify the amounts by which the statutory limit on the public debt is to be changed and direct the committee having jurisdiction to recommend such change; or

(4) specify and direct any combination of the matters described in paragraphs (1), (2), and (3).

(b) LEGISLATIVE PROCEDURE.—If a concurrent resolution containing directives to one or more committees to determine and recommend changes in laws, bills, or resolutions is agreed to in accordance with subsection (a), and—

(1) only one committee of the House or the Senate is directed to determine and recommend changes, that committee shall promptly make such determination and recommendations and report to its House reconciliation legislation containing such recommendations; or

(2) more than one committee of the House or the Senate is directed to determine and recommend changes, each such committee so directed shall promptly make such determination and recommendations and submit such recommendations to the Commitee on the Budget of its House, which, upon receiving all such recommendations, shall report to its House reconciliation legislation carrying out all such recommendations without any substantive revision.

For purposes of this subsection, a reconciliation resolution is a concurrent resolution directing the Clerk of the House of Representatives or the Secretary of the Senate, as the case may be, to make specified changes in bills and resolutions which have not been enrolled.

(c) COMPLIANCE WITH RECONCILIATION DIRECTIONS.—Any committee of the House of Representatives or the Senate that is directed, pursuant to a concurrent resolution on the budget, to determine and recommend changes of the type described in paragraphs (1) and (2) of subsection (a) with respect to laws within its jurisdiction, shall be deemed to have complied with such directions—

(1) if—

(A) the amount of the changes of the type described in paragraph (1) of such subsection recommended by such committee do not exceed or fall below the amount of the changes such committee was directed by such concurrent resolution to recommend under such paragraph by more than 20 percent of the total of the amounts of the changes such committee was directed to make under paragraphs (1) and (2) of such subsection, and

(B) the amount of the changes of the type described in paragraph (2) of such subsection recommended by such committee do not exceed or fall below the amount of the changes such committee was directed by such concurrent resolution to recommend under that paragraph by more than 20 percent of the total of the amounts of the changes such committee was directed to make under paragraphs (1) and (2) of such subsection; and

(2) if the total amount of the changes recommended by such committee is not less than the total of the amounts of the changes such committee was directed to make under paragraphs (1) and (2) of such subsection.

(d) LIMITATION ON AMENDMENTS TO RECONCILIATION BILLS AND RESOLUTIONS.—

(1) It shall not be in order in the House of Representatives to consider any amendment to a reconciliation bill or reconciliation resolution if such amendment would have the effect of increasing any specific budget outlays above the level of such outlays provided in the bill or resolution (for the fiscal years covered by the reconciliation instructions set forth in the most recently agreed to concurrent resolution on the budget), or would have the effect of reducing any specific Federal revenues below the level of such revenues provided in the bill or resolution (for such fiscal years), unless such amendment makes at least an equivalent reduction in other specific budget outlays, an equivalent increase in other specific Federal revenues, or an equivalent combination thereof (for such fiscal years), except that a motion to strike a provision providing new budget authority or new entitlement authority may be in order.

(2) It shall not be in order in the Senate to consider any amendment to a reconciliation bill or reconciliation resolution if such amendment would have the effect of decreasing any specific budget outlay reductions below the level of such outlay reductions provided (for the fiscal years covered) in the reconciliation

instructions which relate to such bill or resolution set forth in a resolution providing for reconciliation, or would have the effect of reducing Federal revenue increases below the level of such revenue increases provided (for such fiscal years) in such instructions relating to such bill or resolution, unless such amendment makes a reduction in other specific budget outlays, an increase in other specific Federal revenues, or a combination thereof (for such fiscal years) at least equivalent to any increase in outlays or decrease in revenues provided by such amendment, except that a motion to strike a provision shall always be in order.

(3) Paragraphs (1) and (2) shall not apply if a declaration of war by the Congress is in effect.

(4) For purposes of this section, the levels of budget outlays and Federal revenues for a fiscal year shall be determined on the basis of estimates made by the Committee on the Budget of the House of Representatives or of the Senate, as the case may be.

(5) The Committee on Rules of the House of Representatives may make in order amendments to achieve changes specified by reconciliation directives contained in a concurrent resolution on the budget if a committee or committees of the House fail to submit recommended changes to its Committee on the Budget pursuant to its instruction.

(e) PROCEDURE IN THE SENATE.—

(1) Except as provided in paragraph (2), the provisions of section 305 for the consideration in the Senate of concurrent resolutions on the budget and conference reports thereon shall also apply to the consideration in the Senate of reconciliation bills reported under subsection (b) and conference reports thereon.

(2) Debate in the Senate on any reconciliation bill reported under subsection (b), and all amendments thereto and debatable motions and appeals in connection therewith, shall be limited to not more than 20 hours.

(f) COMPLETION OF RECONCILIATION PROCESS.—

(1) IN GENERAL.—Congress shall complete action on any reconciliation bill or reconciliation resolution reported under subsection (b) not later than June 15 of each year.

(2) POINT OF ORDER IN THE HOUSE OF REPRESENTATIVES.—It shall not be in order in the House of Repre-

sentatives to consider any resolution providing for an adjournment period of more than three calendar days during the month of July until the House of Representatives has completed action on the reconciliation legislation for the fiscal year beginning on October 1 of the calendar year to which the adjournment resolution pertains, if reconciliation legislation is required to be reported by the concurrent resolution on the budget for such fiscal year.

(g) LIMITATION ON CHANGES TO THE SOCIAL SECURITY ACT.—Notwithstanding any other provision of law, it shall not be in order in the Senate or the House of Representatives to consider any reconciliation bill or reconciliation resolution reported pursuant to a concurrent resolution on the budget agreed to under section 301 or 304, or a resolution pursuant to section 254(b) of the Balanced Budget and Emergency Deficit Control Act of 1985, or any amendment thereto or conference report thereon, that contains recommendations with respect to the old-age, survivors, and disability insurance program established under title II of the Social Security Act.

Until the enactment of Public Law 99-177 this section required the Congress to complete action on a concurrent resolution on the budget, normally the second for that fiscal year, which reaffirmed or revised the most recently agreed to concurrent resolution on the budget. The section also permitted the second budget resolution to implement the reconciliation process, instructions to committees to make changes in law necessary to achieve the amounts contemplated by the budget resolution. Public Law 99-177 eliminated the requirement for subsequent budget resolution by amending subsection (a) and specified the reconciliation process in greater detail by adding paragraph (1)(D) to subsection (a) in addition to new subsections (b)-(g). The changes to subsections (c), (d), and (g) became effective April 15, 1986. Section 271(b) of that law provides that subsections (d) and (g) can be waived or suspended in the Senate only by an affirmative vote of three-fifths of the Senators sworn. The third concurrent resolution on the budget for fiscal year 1980 was the first to include reconciliation instructions to House and Senate committees (H. Con. Res. 307, June 12, 1980, pp. 14505-19).

NEW BUDGET AUTHORITY, NEW SPENDING AUTHORITY, AND REVENUE LEGISLATION MUST BE WITHIN APPROPRIATE LEVELS

SEC. 311. (a) LEGISLATION SUBJECT TO POINT OF ORDER.—Except as provided by subsection (b), after the Congress has completed action on a concurrent resolution on the budget for a fiscal year, it shall not be in order in either the House of Representatives or the Senate to consider any bill, resolution, or amendment providing new budget authority for such fiscal year, providing new entitlement authority effective during such fiscal year, or reducing revenues for such fiscal year, or any conference report on any such bill or resolution, if—

(1) the enactment of such bill or resolution as reported;

(2) the adoption and enactment of such amendment; or

(3) the enactment of such bill or resolution in the form recommended in such conference report;

would cause the appropriate level of total new budget authority or total budget outlays set forth in the most recently agreed to concurrent resolution on the budget for such fiscal year to be exceeded, or would cause revenues to be less than the appropriate level of total revenues set forth in such concurrent resolution or, in the Senate, would otherwise result in a deficit for such fiscal year—

(A) for fiscal year 1989 or any subsequent fiscal year, exceeds the maximum deficit amount specified for such fiscal year in section 3(7); and

(B) for fiscal year 1988 or 1989, exceeds the amount of the estimated deficit for such fiscal year based on laws and regulations in effect on January 1 of the calendar year in which such fiscal year begins as measured using the budget baseline specified in section 251(a)(6) of the Balanced Budget and Emergency Deficit Control Act of 1985 minus $23,000,000,000 for fiscal year 1988 or $36,000,000,000 for fiscal year 1989;

except to the extent that paragraph (1) of section 301(i) or section 304(b), as the case may be, does not apply by reason of paragraph (2) of such subsection.

(b) EXCEPTION IN THE HOUSE OF REPRESENTATIVES.—Subsection (a) shall not apply in the House of Representatives to any bill, resolution, or amendment which provides new budget authority or new entitlement authority effective during such fiscal year, or to any conference report on any such bill or resolution, if—

(1) the enactment of such bill or resolution as reported;

(2) the adoption and enactment of such amendment; or

(3) the enactment of such bill or resolution in the form recommended in such conference report,

would not cause the appropriate allocation of new discretionary budget authority or new entitlement authority made pursuant to section 302(a) for such fiscal year, for the committee within whose jurisdiction such bill, resolution, or amendment falls, to be exceeded.

(c) DETERMINATION OF BUDGET LEVELS.—For purposes of this section, the levels of new budget authority, budget outlays, new entitlement authority, and revenues for a fiscal year shall be determined on the basis of estimates made by the Committee on the Budget of the House of Representatives or of the Senate, as the case may be.

The most important change to this section by Public Law 99–177 was to codify the subsection (b) exception for the House (as earlier versions had appeared in prior budget resolutions) and to add subsection (c), which is similar to the previous subsection (b), and section 271(b) of that law provides that subsection (a) can be waived or suspended only by an affirmative vote in the Senate of three-fifths of the Senators sworn.

In the Senate, the Chair sustained a point of order (later withdrawn) against an amendment which had the effect of reducing revenues for fiscal year 1977 below the total level or revenues contained in the final concurrent resolution on the budget for that year, in violation of section 311(a). Presiding Officer Stone, Oct. 1, 1976, p. 34557. Similarly, a motion in the Senate to recommit a bill with instructions to report it back with an amendment amending the Internal Revenue Code to delay the implementation of withholding on interest and dividends was held (in response to a parliamentary inquiry) to be subject to a point of order since the amendment would cause revenues to be less than the appropriate level provided in the budget resolution for that year (where S. Con. Res. 92 of the 97th Congress, the first budget resolution for fiscal year 1985, provided that if a 2d budget resolution was not adopted by October 1, 1982, section 311 of the Budget Act would apply based on the aggregate figures contained in that resolution) (Apr. 20, 1983, p. ——). A point of order was sustained (and upheld on appeal) in the Senate against consideration of an amendment reducing the amount of a recission of appropriated funds where the effect was to increase the net amount of total budget outlays contained in the bill to a level which, when taken together with other spending actions already completed by Congress, exceeded the total amount of budget outlays provided for the current fiscal year in the third budget resolution in violation of section 311 of the Budget Act (June 27, 1980, pp. 17478–9). Also in the Senate, to a bill making comprehensive changes in the Social Security Act being considered at a time when the revenue floor established by the second concurrent resolution on the budget for that fiscal year had already been breached, an amendment to the Internal Revenue Code to delay interest and dividend withholding during that fiscal year was held to constitute a further revenue reduction and to violate section 311 of the Budget Act (Vice President Bush, Mar. 22, 1983, p. 6573). An amendment in the Senate to a Defense Department authorization bill, providing a new entitlement program of educational assistance to members and veterans of the armed forces, to become effective in a future fiscal year or at any earlier time if so determined by the President, was held to allow new entitlement spending for the current fiscal year and to breach the budget ceiling, and was held to violate section 311 of the Budget Act (July 13, 1983 p. ——).

To an appropriation bill already containing new budget outlays in excess of the total level permitted by the second concurrent resolution on the budget for that fiscal year, where the bill was considered under a waiver of section 311(a) of the Budget Act, an amendment striking out a proposed rescission of existing budget authority which had the effect of causing the net total of new budget authority in the bill to be increased was ruled out in the House as in violation of section 311(a), as further exceeding the total budget outlay ceiling in the second concurrent resolution on the budget (May 12, 1981, pp. 9314-5). An amendment that provides no new budget authority or outlays but instead results in outlay savings is not subject to a point of order under section 311(a) (June 30, 1987, p. ——).

TITLE IV—ADDITIONAL PROVISIONS TO IMPROVE FISCAL PROCEDURES

BILLS PROVIDING NEW SPENDING AUTHORITY

§ 1008.

SEC. 401. (a) CONTROLS ON LEGISLATION PROVIDING SPENDING AUTHORITY.—It shall not be in order in either the House of Representatives or the Senate to consider any bill, resolution, or conference report, as reported to its House which provides new spending authority described in subsection (c)(2) (A) or (B) (or any amendment which provides such new spending authority), unless that bill, resolution, conference report, or amendment also provides that such new spending authority as described in subsection (c)(2) (A) or (B) is to be effective for any fiscal year only to such extent or in such amounts as are provided in appropriation Acts.

The changes made in Title IV by Public Law 99-177 generally became effective for fiscal years beginning after Sept. 30, 1985. Public Law 99-177 amended this subsection by substituting the phrase "spending authority" for "contract or borrowing authority" and extended the point of order to conference reports, consistent with House precedent. Language in a bill authorizing receipts from loans under certain legislation to be made available for designated purposes was held not to be "new spending authority" which would prohibit the consideration of the bill under section 401(a) of the Congressional Budget Act, where it was shown from the term "authorized" and from the committee report on the bill that the amounts of repaid loans must again be appropriated in appropriation acts before the funds could be expended. Speaker Albert, Sept. 10, 1975, p. 28270.

Section 401(a) of the Congressional Budget Act prohibits the consideration of a bill or amendment, including a conference report, containing new spending authority to incur indebtedness for the repayment of which the United States is primarily liable, the budget authority for which is not provided in advance by appropriation acts. Thus a conference report authorizing the Secretary of HEW to borrow funds by issuing government notes as a public debt transaction to make payments in connection with defaults on loans made by medical students, not subject to amounts specified in advance by appropriation acts, was ruled out of order as violating section 401(a). Speaker pro tempore McFall, Sept. 27, 1976, pp. 32655–704.

(b) LEGISLATION PROVIDING ENTITLEMENT AUTHORITY.—

(1) It shall not be in order in either the House of Representatives or the Senate to consider any bill or resolution which provides new spending authority described in subsection (c)(2)(C) (or any amendment which provides such new spending authority) which is to become effective before the first day of the fiscal year which begins during the calendar year in which such bill or resolution is reported.

A conference report (filed in 1976 to accompany a bill originally reported in the House in calendar year 1975) requiring the Secretary of Agriculture to pay a cost of transporting agricultural commodities to major disaster areas upon the date of enactment was held to constitute new spending "entitlement" authority, as defined in section 401(c)(2)(C), which could become effective prior to the fiscal year beginning during the calendar year in which the bill had been reported from conference in violation of section 401(b)(1), and the conference report was ruled out of order. Speaker Albert, Sept. 23, 1976, pp. 3209–10. A Senate amendment providing new spending (entitlement) authority for adjustment assistance under the Trade Act of 1974, by requiring the Secretary of Labor to certify a new group of workers as eligible beginning on the day prior to the start of the ensuing fiscal year was conceded to violate section 401(b)(1) and a motion to concur was ruled out on a point of order. Speaker pro tempore Wright, June 26, 1986, pp. ——.

(2) If any committee of the House of Representatives or the Senate reports any bill or resolution which provides new spending authority described in subsection (c)(2)(C) which is to become effective during a fiscal year and the amount of new budget authority

which will be required for such fiscal year if such bill or resolution is enacted as so reported exceeds the appropriate allocation of new budget authority reported under section 302(b) in connection with the most recently agreed to concurrent resolution on the budget for such fiscal year, such bill or resolution shall then be referred to the Committee on Appropriations of that House with instructions to report it, with the committee's recommendations, within 15 calendar days (not counting any day on which that House is not in session) beginning with the day following the day on which it is so referred. If the Committee on Appropriations of either House fails to report a bill or resolution referred to it under this paragraph within such 15-day period, the committee shall automatically be discharged from further consideration of such bill or resolution and such bill or resolution shall be placed on the appropriate calendar.

(3) The Committee on Appropriations of each House shall have jurisdiction to report any bill or resolution referred to it under paragraph (2) with an amendment which limits the total amount of new spending authority provided in such bill or resolution.

Where a committee has not yet filed with the House, as required by section 302(b), a report subdividing among its subcommittees or by programs new entitlement authority allocated to that committee in the joint statement accompanying a conference report on a concurrent resolution on the budget, under section 302(a), the Speaker under this paragraph refers to the Committee on Appropriations for the fifteen-day period a bill reported by that committee which exceeds the total entitlement authority allocated to that committee in the joint statement, and also refers any subsequent bill reported by that committee which contains new entitlement authority (Speaker Albert, May 17, 1976, p. 14093; Aug. 25, 1976, p. 27775). Prior to consideration of a bill in Committee of the Whole, the Speaker may discharge from the Union Calendar and refer to the Committee on Appropriations for fifteen days, pursuant to this paragraph, a bill which has been reported, providing new entitlement authority in excess of the total amount allocated to the reporting committee (Speaker O'Neill, Sept. 8, 1977, p. 28153; Sept. 8, 1978, p. 28543) even if the bill was reported prior to final adoption of the first budget concurrent resolution (Speaker O'Neill, July 19, 1978, pp. 21786–7; Speaker O'Neill, May 21, 1981, p. 10622). A bill reported from the Committee on Agriculture amending the Food and Agriculture Act to increase certain commodity target prices of 1979 crops, thereby providing new entitlement authority for fiscal year 1980 in excess of the amount allocated to that committee under the first budget, and a bill reported from the Committee on Ways and Means increasing eligibility and payments for child welfare and social services under the Social Security Act, providing new entitlement authority in excess of the net amount of such authority allocated to that Committee under the first budget resolution, were discharged from the Union Calendar by the Speaker and referred to the Committee on Appropriations pursuant to this paragraph (Speaker O'Neill, June 5, 1979, p. 13385; June 6, 1979, p. 13665). The Speaker may exercise his referral authority under this paragraph, whether or not the committee has filed its report under section 302(b) of the Budget Act, where the budget authority for the entitlement bill has been assumed in the budget resolution and would be included in the committee's 302(b) report, but where the budget authority for such bill exceeds the net amount of such authority allocated to the reporting committee, because the budget resolution assumes the reporting of other legislation, decreasing other programs for the year in question, which has not yet been reported (Speaker O'Neill, June 6, 1979, p. 13665).

(c) DEFINITIONS.—

(1) For purposes of this section, the term "new spending authority" means spending authority not provided by law on the effective date of this Act, including any increase in or addition to spending authority provided by law on such date.

(2) For purposes of paragraph (1), the term "spending authority" means authority (whether temporary or permanent)—

(A) to enter into contracts under which the United States is obligated to make outlays, the budget authority for which is not provided in advance by appropriation Acts;

(B) to incur indebtedness (other than indebtedness incurred under chapter 31 of title 31 of the United States Code) for the repayment of which the United States is liable, the budget authority for which is not provided in advance by appropriation Acts;

(C) to make payments (including loans and grants), the budget authority for which is not provided for in advance by appropriation Acts, to any person or government if, under the provisions of the law containing such authority, the United States is obligated to make such payments to persons or governments who meet the requirements established by such law;

(D) to forego the collection by the United States of proprietary offsetting receipts, the budget authority for which is not provided in advance by appropriation Acts to offset such foregone receipts; and

(E) to make payments by the United States (including loans, grants, and payments from revolving funds) other than those covered by subparagraph (A), (B), (C), or (D), the budget authority for which is not provided in advance by appropriation Acts.

Such term does not include authority to insure or guarantee the repayment of indebtedness incurred by another person or government.

Public Law 99-177 added new subparagraphs (D) covering proprietary receipts and (E) covering all other spending authority not subject to the annual appropriations process, such as permanent appropriations, in order to define the various types of "backdoor" spending authority. While the definition of new spending authority in section 401(c)(2) of the Congressional Budget Act which must be made subject to advance appropriation acts does not include the authority to insure or guarantee the repayment of indebtedness incurred by another person or government (as where the authority to incur contractual obligations to insure or guarantee another person's debt is a contingent liability of the United States), the authority to make payments in connection with defaults which have already occurred was conceded to constitute a primary liability of the United States to incur indebtedness and to require budget authority in advance in appropriation acts. Speaker pro tempore McFall, Sept. 27, 1976, pp. 32655–704. A provision which requires payments to individuals meeting certain qualifications, but which also contains an authorization for appropriations to make such payments and a provision that if sums appropriated pursuant thereto are insufficient to make payments, then payments be ratably reduced to the amounts of appropriations actually made, does not constitute new entitlement spending authority under the preceding definition (Sept. 13, 1983, p. ——).

(d) EXCEPTIONS.—

(1) Subsections (a) and (b) shall not apply to new spending authority if the budget authority for outlays which will result from such new spending authority is derived—

(A) from a trust fund established by the Social Security Act (as in effect on the date of the enactment of this Act); or

(B) from any other trust fund, 90 percent or more of the receipts of which consist or will consist of amounts (transferred from the general fund of the Treasury) equivalent to amounts of taxes (related to the purposes for which such outlays are or will be made) received in the Treasury under specified provisions of the Internal Revenue Code of 1954.

(2) Subsections (a) and (b) shall not apply to new spending authority which is an amendment to or extension of the State and Local Fiscal Assistance Act of 1972, or a continuation of the program of fiscal assistance to State and local governments provided by that Act, to the extent so provided in the bill or resolution providing such authority.

(3) Subsections (a) and (b) shall not apply to new spending authority to the extent that—

(A) the outlays resulting therefrom are made by an organization which is (i) a mixed-ownership Government corporation (as defined in section 201 of the Government Corporation Control Act), or (ii) a wholly owned Government corporation (as defined in section 101 of such Act) which is specifically exempted by law from compliance with any or all of the provisions of that Act, as of the date of enactment of the Balanced Budget and Emergency Deficit Control Act of 1985; or

(B) the outlays resulting therefrom consist exclusively of the proceeds of gifts or bequests made to the United States for a specific purpose.

Public Law 99-177 left this subsection intact except that section 401(d)(3)(A)(ii) will not apply to government corporations created after December 12, 1985. The definition of new spending "entitlement" authority contained in section 401(c)(2)(C) of the Congressional Budget Act (and incorporated by reference in section 303(a) of said Act, prohibiting the consideration of future year entitlement bills, resolutions and amendments) includes revenue sharing spending authority in the form of entitlements, as the exception from the definition of new spending authority accorded to revenue sharing programs in section 401(d)(2) of the Act does not apply to new spending authority in the form of an entitlement for future fiscal years. Speaker Albert, Sept. 30, 1976, pp. 34074-100.

LEGISLATION PROVIDING NEW CREDIT AUTHORITY

SEC. 402. (a) CONTROLS ON LEGISLATION PROVIDING NEW CREDIT AUTHORITY.—It shall not be in order in either the House of Representatives or the Senate to consider any bill, resolution, or conference report, as reported to its House, or any amendment which provides new credit authority described in subsection (b)(1), unless that bill, resolution, conference report, or amendment also provides that such new credit authority is to be effective for any fiscal year only to such extent or in such amounts as are provided in appropriation Acts.

(b) DEFINITION.—For purposes of this Act, the term "new credit authority" means credit authority (as defined in section 3(10) of this Act) not provided by law on the effective date of this section, including any increase in or addition to credit authority provided by law on such date.

Prior to the enactment of Public Law 99-177, section 402(a) set a deadline of May 15 before the start of a fiscal year for reporting measures making authorizations for that fiscal year. Subsections (b)-(d) related to waiver of the point of order set forth in (a), subsection (e) dealt with exceptions, and subsection (f) with a study by the Appropriations Committees of existing spending authority and permanent appropriations. Public Law 99-177 created a new point of order in subsection (a) to require new credit authority, as described in the new subsection (b), to be effective only to the extent or in the amounts provided in appropriation acts. The section, as amended, became effective Feb. 1, 1986.

ANALYSIS BY CONGRESSIONAL BUDGET OFFICE

SEC. 403. (a) The Director of the Congressional Budget Office shall, to the extent practicable, prepare for each bill or resolution of the public character reported by any committee of the House of Representatives or the Senate (except the Committee on Appropriations of each House), and submit to such committee—

(1) an estimate of the costs which would be incurred in carrying out such bill or resolution in the fiscal year in which it is to become effective and in each of the 4 fiscal years following such fiscal year, together with the basis for each such estimate;

(2) an estimate of the cost which would be incurred by State and local governments in carrying out or complying with any significant bill or resolution in the fiscal year in which it is to become effective and in each of the four fiscal years following such fiscal year, together with the basis for each such estimate;

(3) a comparison of the estimates of costs described in paragraphs (1) and (2), with any available estimates of costs made by such committee or by any Federal agency; and

(4) a description of each method for establishing a Federal financial commitment contained in such bill or resolution.

The estimates, comparison, and description so submitted shall be included in the report accompanying such bill or resolution if timely submitted to such committee before such report is filed.

(b) For purposes of subsection (a)(2), the term "local government" has the same meaning as in section 103 of the Intergovernmental Cooperation Act of 1968.

(c) For purposes of subsection (a)(2), the term "significant bill or resolution" is defined as any bill or resolution which in the judgment of the Director of the Congressional Budget Office is likely to result in an annual cost to State and local governments of $200,000,000 or more, or is likely to have exceptional fiscal consequences for a geographic region or a particular level of government.

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Public Law 99-177 amended this section by adding paragraph (4) to subsection (a) with a conforming change to the second sentence of that subsection as well. Previously Public Law 97-108 amended section 403 by adding sections 403(a)(2), 403(b) and 403(c). The amendments apply to all bills or resolutions reported by committees of the House or Senate after Sept. 30, 1982.

STUDY BY THE GENERAL ACCOUNTING OFFICE OF FORMS OF FEDERAL FINANCIAL COMMITMENT THAT ARE NOT REVIEWED ANNUALLY BY CONGRESS

SEC. 405. The General Accounting Office shall study those provisions of law which provide spending authority as described by section 401(c)(2) and which provide permanent appropriations, and report to the Congress its recommendations for the appropriate form of financing for activities or programs financed by such provisions not later than eighteen months after the effective date of this section. Such report shall be revised from time to time.

OFF-BUDGET AGENCIES, PROGRAMS, AND ACTIVITIES

SEC. 406. (a) Notwithstanding any other provision of law, budget authority, credit authority, and estimates of outlays and receipts for activities of the Federal budget which are off-budget immediately prior to the date of enactment of this section, not including activities of the Federal Old-Age and Survivors Insurance and Federal Disability Insurance Trust Funds, shall be included in a budget

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submitted pursuant to section 1105 of title 31, United States Code, and in a concurrent resolution on the budget reported pursuant to section 301 or section 304 of this Act and shall be considered, for purposes of this Act, budget authority, outlays, and spending authority in accordance with definitions set forth in this Act.

(b) All receipts and disbursements of the Federal Financing Bank with respect to any obligations which are issued, sold, or guaranteed by a Federal agency shall be treated as a means of financing such agency for purposes of section 1105 of title 31, United States Code, and for purposes of this Act.

MEMBER USER GROUP

SEC. 407. The Speaker of the House of Representatives, after consulting with the Minority Leader of the House, may appoint a Member User Group for the purpose of reviewing budgetary scorekeeping rules and practices of the House and advising the Speaker from time to time on the effect and impact of such rules and practices.

Public Law 99-177 added sections 405, 406, and 407 as new sections at the end of Title IV.

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Public Law 97-258 repealed sections 601-605 and 607 of the original Budget Act which referred to the contents of the President's budget submissions to Congress. Those sections were reenacted in Public Law 97-258 and codified in title 31, United States Code in sections 1105, 1106, and 1108-1110. Public Law 99-177 repealed section 606 of the original Budget Act, effective Dec. 12, 1985.

TITLE VII—PROGRAM REVIEW AND EVALUATION

REVIEW AND EVALUATION BY STANDING COMMITTEES

§ 1010.

SEC. 701. Section 136(a) of the Legislative Reorganization Act of 1946 (2 U.S.C. 190d) is amended by adding at the end thereof the following new sentences: "Such committees may carry out the require analysis, appraisal, and evaluation themselves, or by contract, or may require a Government agency to do so and furnish a report theron to the Congress. Such committees may rely on such techniques as pilot testing, analysis of costs in comparison with benefits, or provision for evaluation after a defined period of time."

* * * * *

Public Law 97-258 repealed section 702 of the original Budget Act which referred to the review and evaluation of Government activities by the Comptroller General. Section 702(a) was codified in title 31, United States Code in sections 702, 717, 719, and 731, and section 702(b) of the Act was executed in amending the table of contents of the Legislative Reorganization Act of 1970.

CONTINUING STUDY OF ADDITIONAL BUDGET REFORM PROPOSALS

Sec. 703. (a) The Committee on the Budget of the House of Representatives and the Senate shall study on a continuing basis proposals designed to improve and facilitate methods of congressional budget-making. The proposals to be studied shall include, but are not limited to, proposals for—

(1) improving the information base required for determining the effectiveness of new programs by such means as pilot testing, survey research, and other experimental and analytical techniques;

(2) improving analytical and systematic evaluation of the effectiveness of existing programs;

(3) establishing maximum and minimum time limitations for program authorization; and

(4) developing techniques of human resource accounting and other means of providing noneconomic as well as economic evaluation measures.

(b) The Committee on the Budget of each House shall, from time to time, report to its House the results of the study carried on by it under subsection (a), together with its recommendations.

(c) Nothing in this section shall preclude studies to improve the budgetary process by any other committee of the House of Representatives or the Senate or any joint committee of the Congress.

* * * * *

EXERCISE OF RULEMAKING POWERS

Sec. 904. (a) The provisions of this title (except section 905) and of titles I, III, and IV and the provisions of sections 606, 701, 703, and 1017 are enacted by the Congress—

(1) as an exercise of the rulemaking power of the House of Representatives and the Senate, respectively, and as such they shall be considered as part of the rules of each House, respectively, or of that House to which they specifically apply, and such rules shall supersede other rules only to the extent that they are inconsistent therewith; and

(2) with full recognition of the constitutional right of either House to change such rules (so far as relating to such House) at any time, in the same manner, and to the same extent as in the case of any other rule of such House.

(b) Any provision of title III or IV may be waived or suspended in the Senate by a majority vote of the Members voting, a quorum being present, or by the unanimous consent of the Senate.

(c) Sections 305(b)(2) and 306 of this Act may be waived or suspended in the Senate only by the affirmative vote of three-fifths of the Members, duly chosen and sworn.

(d) Appeals in the Senate from the decisions of the Chair relating to any provision of title III or IV or section 1017 shall, except as otherwise provided therein, be limited to 1 hour, to be equally divided between and controlled by, the mover and the manager of the resolution, concurrent resolution, reconciliation bill, or rescission bill, as the case may be.

Pursuant to this section, and under its authority contained in clause 4(b) of Rule XI to report on rules and the order of business, the Committee on Rules may report as privileged a resolution recommending the temporary waiver of the provisions of section 401 of the Congressional Budget Act during the consideration of designated legislation in the House (Speaker Albert, March 20, 1975, p. 7676). A point of order against consideration of a resolution reported from the Committee on Rules providing for consideration of a concurrent resolution on the budget does not lie based upon alleged violation of a statute which merely reaffirms the Congressional commitment towards achieving balanced Federal budgets (Public Law 96-389), since the statute does not constitute a rule of the House and since section 904 of the Budget Act acknowledges the Constitutional authority of either House to change its rules at any time (June 10, 1982, pp. 13352-3). A unanimous-consent agreement which only permits a (non-privileged) bill to be considered in the House prior to three-day availability of the report thereon, but which does not specifically waive points of order against consideration, but does not preclude a point of order against consideration of the bill when called up based upon an alleged violation of the Budget Act (Feb. 4, 1982, p. 845).

BALANCED BUDGET AND EMERGENCY DEFICIT CONTROL ACT

[FROM TITLE II OF PUBLIC LAW 99-177 (99 STAT. 1037), AS AMENDED BY PUBLIC LAW 100-119 (101 STAT. 754)]

§ 1012. The Balanced Budget and Emergency Deficit Control Act of 1985 (title II of Public Law 99-177, as amended by Public Law 100-119) contains the following provisions relating to deficit reduction procedures in the House and Senate:

SEC. 252. PRESIDENTIAL ORDER.

* * * * * * *

(b) ISSUANCE OF FINAL ORDER.—

* * * * * * *

(4) ACCOMPANYING MESSAGE.—Not later than the 15th day beginning after the President issues a final order under paragraph (1) for any fiscal year, the President shall transmit to both Houses of Congress a single message in the same manner as, and containing all the information required by, subsection (a)(5).

(c) PROPOSAL OF ALTERNATIVES BY THE PRESIDENT.—

(1) IN GENERAL.—A message transmitted pursuant to subsection (a)(5) with respect to a fiscal year may be accompanied by a proposal setting forth in full detail alternative ways to reduce the deficit for such fiscal year in an amount not less than the deficit reduction required under section 251(a)(3) for such fiscal year.

(2) FLEXIBILITY AMONG DEFENSE PROGRAMS, PROJECTS, AND ACTIVITIES.—

(A) Subject to subparagraphs (B), (C), and (D), and subsection (d), new budget authority and unobligated balances for any programs, projects, or activities within major functional category 050 (other than a military personnel account) may be further reduced beyond the amount specified in an order issued by the President under subsection (b)(1) for such fiscal year. To the extent such additional reductions are made and result in additional outlay reductions, the President may provide for lesser reductions in new budget authority and unobligated balances for other programs, projects, or activities within major functional category 050 for such fiscal year, but only to the extent that the resulting outlay increases do not exceed the additional outlay reductions, and no such program, project, or activity may be increased above the level actually made available by law in appropriation Acts (before taking sequestration into account). In making calculations under this subparagraph, the President shall use account outlay rates that are identical to those used in the report by the Director of OMB under section 251(c)(2).

(B) No actions taken by the President under subparagraph (A) for a fiscal year may result in a domestic base closure or realignment that would otherwise be subject to section 2687 of title 10, United States Code.

(C) The President may not exercise the authority provided by this paragraph for a fiscal year unless—

(i) the President submits a single report to Congress specifying changes proposed to be made for such fiscal year pursuant to this paragraph; and

(ii) a joint resolution affirming or modifying the changes proposed by the President pursuant to this paragraph becomes law.

(D) Within 5 calendar days of session after the President submits a report to Congress under subparagrah (C)(i) for a fiscal year, but before November 25, 1987, for fiscal year 1988 or, in the case of any subsequent fiscal year, before October 20 of such fiscal year, the majority leader of each House of Congress shall (by request) introduce a joint resolution which contains provisions affirming the changes proposed by the President pursuant to this paragraph.

(E)(i) The matter after the resolving clause in any joint resolution introduced pursuant to subparagraph (D) shall be as follows: "That the report of the President as submitted on [Insert Date] under section 252(c)(2)(C)(i) is hereby approved.".

(ii) The title of the joint resolution shall be "Joint resolution approving the report of the President submitted under section 252(c)(2)(C)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985.".

(iii) Such joint resolution shall not contain any preamble.

(F)(i) A joint resolution introduced in the House of Representatives under subparagraph (D) shall be referred to the Committee on Appropriations, and if not reported within 5 calendar days (excluding Saturdays, Sundays, and legal holidays) from the date of introduction shall be considered as having been discharged therefrom and shall be placed on the appropriate calendar pending disposition of such joint resolution in accordance with this subsection.

(ii) A joint resolution introduced in the Senate under subparagraph (d) shall be referred to the Committee on Appropriations, and if not reported within 5 calendar days (excluding Saturdays, Sundays, and legal holidays) from the date of introduction shall be considered as having been discharged therefrom and shall be placed on the appropriate calendar pending disposition of such joint resolution in accordance with this subsection. In the Senate, no amendment made in the Committee on Appropriations shall be in order other than an amendment (in the nature of a substitute) that is germane or relevant to the provisions of the joint resolution or to the order issued under section 252(b)(1) insofar as they relate to major function 050 (national defense).

(iii) On or after the third calendar day (excluding Saturdays, Sundays, and legal holidays) beginning after a joint resolution is placed on the appropriate calendar, notwithstanding any rule or precedent of the Senate, including Rule 22 of the Standing Rules of the Senate, it is in order (even though a previous motion to the same effect has been disagreed to) for any Member of the respective House to move to proceed to the consideration of the joint resolution, and all points of order against the joint resolution (and against consideration of the joint resolution) are waived, except for points of order under titles III and IV of the Congressional Budget Act of 1974. The motion is not in order after the eighth calendar day (excluding Saturdays, Sundays, and legal holidays) beginning after such joint resolution is placed on the appropriate calendar. The motion is highly privileged in the House of Representatives and is privileged in the Seante and is not debatable. The motion is not subject to amendment, or to a motion to postpone, or to a motion to proceed to the consideration of other business. A motion to reconsider the vote by which the motion is agreed to or disagreed to shall not be in order. If a motion to proceed to the consideration of the joint resolution is agreed to, the respective House shall immediately proceed to consideration of the joint resolution without intervening motion, order, or other business, and the joint resolution shall remain the unfinished business of the respective House until disposed of.

(G)(i) In the Senate, debate on a joint resolution introduced under subparagraph (D), amendments thereto, and all debatable motions and appeals in connection therewith shall be limited to not more than 10 hours, which shall be divided equally between the majority leader and the minority leader (or their designees). In the House, general debate on a joint resolution introduced under subparagraph (D) shall be limited to not more than 4 hours which shall be equally divided between the chairman of the Committee on Appropriations and the ranking minority member of such committee.

(ii) A motion to postpone, or a motion to proceed to the consideration of other business is not in order. A motion to reconsider the vote by which the joint resolution is agreed to or disagreed to is not in order. In the Senate, a motion to recommit the joint resolution is not in order. In the House, a motion further to limit debate is in order and not debatable. In the House, a motion to recommit, with or without instructions, is in order.

(H)(i) In the House of Representatives, an amendment and any amendment to an amendment is debatable for not to exceed 30 minutes to be equally divided between the proponent of the amendment and a Member opposed thereto.

(ii) No amendment that is not germane or relevant to the provisions of the joint resolution or to the order issued under section 252(b)(1) insofar as they relate to major function 050 (national defense) shall be in order in the Senate. In the Senate, an amendment, any amendment to an amendment, or any debatable motion or appeal is debatable for not to exceed 30 minutes to be equally divided between the majority leader and the minority leader (or their designees).

(iii) In the Senate, an amendment that is otherwise in order shall be in order notwithstanding the fact that it amends the joint resolution in more than one place or amends language previously amended. It shall not be in order in the Senate to vote on the question of agreeing to such a joint resolution or any amendment thereto unless the figures then contained in such joint resolution or amendment are mathematically consistent.

(iv) It shall not be in order in the Senate to conider any amendment to any joint resolution introduced under subparagrah (D) or any conference report thereon if such amendment or conference report would have the effect of decreasing any specific budget outlay reductions below the level of such outlay reductions provided in such joint resolution unless such amendment or conference report makes a reduction in other specific budget outlays at least equivalent to any increase in outlays provided by such amendment or conference report.

(v) For purposes of the application of clause (iv), the level of outlays and specific budget outlay reductions provided in an amendment shall be determined on the basis of estimates made by the Committee on the Budget of the Senate.

(I) Immediately following the conclusion of the debate on a joint resolution introduced under subparagraph (D), a single quorum call at the conclusion of the debate if requested in accordance with the rules of the appropriate House, and the disposition of any amendments under subparagraph (H) (except in the House of Representatives for the motion to recommit and the disposition of any amendment proposed in a motion to recommit which has been adopted), the vote on final passage of the joint resolution shall occur.

(J) Appeals from the decisions of the Chair relating to the application of the rules of the Senate or the House of Representatives, as the case may be, to the procedure relating to a joint resolution described in subparagraph (D) shall be decided without debate.

(K) In the Senate, points of order under titles III and IV of the Congressional Budget Act of 1974 (including points of order under sections 302(c), 303(a), 306, and 401(b)(1)) are applicable to a conference report on the joint resolution or any amendments in disagreement thereto.

(L) If, before the passage by the Senate of a joint resolution of the Senate introduced under subparagraph (D), the Senate receives from the House of Representatives a joint resolution introduced under the subparagraph (D), then the following procedures shall apply:

(i) The joint resolution of the House of Representatives shall not be referred to a committee.

(ii) With respect to a joint resolution introduced under subparagraph (D) in the Senate—

(I) the procedure in the Senate shall be the same as if no joint resolution had been received from the House; but

(II)(aa) the vote on final passage shall be on the joint resolution of the House if it is identical to the joint resolution then pending for passage in the Senate; or

(bb) if the joint resolution from the House in not identical to the joint resolution then pending for passage in the Senate and the Senate then passes it, the Senate shall be considered to have passed the joint resolution as amended by the text of the Senate joint resolution.

(iii) Upon disposition of the joint resolution received from the House, it shall no longer be in order to consider the joint resolution originated in the Senate.

(M) If the Senate receives from the House of Representatives a joint resolution introduced under subparagraph (D) after the Senate has disposed of a Senate originated joint resolution which is identical to the House passed joint resolution, the action of the Senate with regard to the disposition of the Senate originated joint resolution shall be deemed to be the action of the Senate with regard to the House originated joint resolution. If it is not identical to the House passed joint resolution, then the Senate shall be considered to have passed the joint resolution of the House as amended by the text to the Senate joint resolution.

* * * * *

SEC. 254. CONGRESSIONAL ACTION.

(a) SPECIAL PROCEDURES IN THE EVENT OF A RECESSION.—

(1) IN GENERAL.—The Director of the Congressional Budget Office shall notify the Congress at any time if—

(A) during the period consisting of the quarter during which such notification is given, the quarter preceding such notification, and the four quarters following such notification, such Office or the Office of Management and Budget has determined that real economic growth is projected or estimated to be less than zero with respect to each of any two consecutive quarters within such period, or

(B) the Department of Commerce preliminary reports of actual real economic growth (or any subsequent revision thereof) indicate that the rate of real economic growth for each of the most recent reported quarter and the immediately preceding quarter is less than one percent.

Upon such notification the Majority Leader of each House shall introduce a joint resolution (in the form set forth in paragraph (2)) declaring that the conditions specified in this paragraph are met and suspending the relevant provisions of this title for the remainder of the current fiscal year or for the following fiscal year or both.

(2) FORM OF JOINT RESOLUTION.—

(A) The matter after the resolving clause in any joint resolution introduced pursuant to paragraph (1) shall be as follows: "That the Congress declares that the conditions specified in section 254(a)(1) of the Balanced Budget and Emergency Deficit Control Act of 1985 are met; and—

"(1) the provisions of sections 3(7), 301(i), 302(f), 304(b), and 311(a) of the Congressional Budget and Impoundment Control Act of

1974, section 1106(c) of title 31, United States Code, and part C of the Balanced Budget and Emergency Deficit Control Act of 1985 are suspended for the remainder of the current fiscal year, and

"(2) the provisions of sections 3(7), 301(i), 304(b), and 311(a) (insofar as it relates to section 3(7)) of the Congressional Budget and Impoundment Control Act of 1974, sections 302(f) and 311(a) (except insofar as it relates to section 3(7)) of that Act (but only if a concurrent resolution on the budget under section 301 of that Act, for the fiscal year following the current fiscal year, has been agreed to prior to the introduction of this joint resolution), sections 1105(f) and 1106(c) of title 31, United States Code, and part C of the Balanced Budget and Emergency Deficit Control Act of 1985 are suspended for the fiscal year following the current fiscal year.

This joint resolution shall not have the effect of suspending any final order which was issued for the current fiscal year under section 252(b) of the Balanced Budget and Emergency Deficit Control Act of 1985 if such order was issued before the date of the enactment of this joint resolution.".

(B) The title of the joint resolution shall be "Joint resolution suspending certain provisions of law pursuant to section 254(a)(2) of the Balanced Budget and Emergency Deficit Control Act of 1985."; and the joint resolution shall not contain any preamble.

(3) COMMITTEE ACTION.—Each joint resolution introduced pursuant to paragraph (1) shall be referred to the Committee on the Budget of the House involved; and such Committee shall report the joint resolution to its House without amendment on or before the fifth day on which such House is in session after the date on which the joint resolution is introduced. If the Committee fails to report the joint resolution within the five-day period referred to in the preceding sentence, it shall be automatically discharged from further consideration of the joint resolution, and the joint resolution shall be placed on the appropriate calendar.

(4) CONSIDERATION OF JOINT RESOLUTION.—

(A) A vote on final passage of a joint resolution reported to a House of the Congress or discharged pursuant to paragraph (3) shall be taken on or before the close of the fifth calendar day of session of such House after the date on which the joint resolution is reported to such House or after the Committee has been discharged from further consideration of the joint resolution. If prior to the passage by one House of a joint resolution of that House, that House receives the same joint resolution from the other House, then—

(i) the procedure in that House shall be the same as if no such joint resolution had been received from the other House, but

(ii) the vote on final passage shall be on the joint resolution of the other House.

When the joint resolution is agreed to, the Clerk of the House of Representatives (in the case of a House joint resolution agreed to in the House of Representatives) or the Secretary of the Senate (in the case of a Senate joint resolution agreed to in the Senate) shall cause the joint resolution to be engrossed, certified, and transmitted to the other House of the Congress as soon as practicable.

(B)(i) A motion in the House of Representatives to proceed to the consideration of a joint resolution under this paragraph shall be highly privileged and not debatable. An amendment to the motion shall not be in order, nor shall it be in order to move to reconsider the vote by which the motion is agreed to or disagreed to.

(ii) Debate in the House of Representatives on a joint resolution under this paragraph shall be limited to not more than five hours, which shall be divided equally between those favoring and those opposing the joint resolution. A motion to postpone, made in the House of Representatives with respect to the consideration of a joint resolution under this paragraph, and a motion to proceed to the consideration of other business, shall not be in order. A motion further to limit debate shall not be debatable. It shall not be in order to move to table or to recommit a joint resolution under this paragraph or to move to reconsider the vote by which the joint resolution is agreed to or disagreed to.

(iii) All appeals from the decisions of the Chair relating to the application of the Rules of the House of Representatives to the procedure relating to a joint resolution under this paragraph shall be decided without debate.

(iv) Except to the extent specifically provided in the preceding provisions of this subsection or in subparagraph (D), consideration of a joint resolution under this subparagraph shall be governed by the Rules of the House of Representatives.

(C)(i) A motion in the Senate to proceed to the consideration of a joint resolution under this paragraph shall be privileged and not debatable. An amendment to the motion shall not be in order, nor shall it be order to move to reconsider the vote by which the motion is agreed to or disagrees to.

(ii) Debate in the Senate on a joint resolution under this paragraph, and all debatable motions and appeals in connection therewith, shall be limited to not more than five hours. The time shall be equally divided between, and controlled by, the majority leader and the minority leader or their designees.

(iii) Debate in the Senate on any debatable motion or appeal in connection with a joint resolution under this paragraph shall be limited to not more than one hour, to be equally divided between, and controlled by, the mover and the manager of the joint resolution, except that in the event the manager of the joint resolution is in favor of any such motion or appeal, the time in opposition thereto shall be controlled by the minority leader or his designee.

(iv) A motion in the Senate to further limit debate on a joint resolution under this paragraph is not debatable. A motion to table or to recommit a joint resolution under this paragraph is not in order.

(D) No amendment to a joint resolution considered under this paragraph shall be in order in either the House of Representatives or the Senate.

(b) CONGRESSIONAL RESPONSE TO PRESIDENTIAL ORDER.—

(1) REPORTING OF RESOLUTIONS, AND RECONCILIATION BILLS AND RESOLUTIONS, IN THE SENATE.—

(A) COMMITTEE ALTERNATIVES TO PRESIDENTIAL ORDER.—Within two days after the submission of a report by the Director of OMB under section 251(c)(2), each standing committee of the Senate may submit to the Committee on the Budget of the Senate information of the type described in section 301(d) of the Congressional Budget Act of 1974 with respect to alternatives to the order envisioned by such report insofar as such order affects laws within the jurisdiction of the committee.

(B) INITIAL BUDGET COMMITTEE ACTION.—Not later than two days after issuance of a final order by the President under section 252(b) with respect to a fiscal year, the Committee on the Budget of the Senate may report to the Senate a resolution. The resolution may affirm the impact of the order issued under such section, in whole or in part. To the extent that any part of the order is not affirmed, the resolution shall state which parts are not affirmed and shall contain instructions to committees of the Senate of the type referred to in section 310(a) of the Congressional Budget Act of 1974, sufficient to achieve at least the total level of deficit reduction contained in those sections which are not affirmed.

(C) RESPONSE OF COMMITTEES.—Committees instructed pursuant to subparagraph (B), or affected thereby, shall submit their responses to the Budget Committee no later than 10 days after the resolution referred to in subparagraph (B) is agreed to, except that if only one such Committee is so instructed such Committee shall, by the same date, report to the Senate a reconciliation bill or reconciliation resolution containing its recommendations in response to such instructions. A committee shall be considered to have complied with all instructions to it pursuant to a resolution adopted under subparagraph (B) if it has made recommendations with respect to matters within its jurisdiction which would result in a reduction in the deficit at least equal to the total reduction directed by such instructions.

(D) BUDGET COMMITTEE ACTION.—Upon receipt of the recommendations received in response to a resolution referred to in subparagraph (B), the Budget Committee shall report to the Senate a reconciliation bill or reconciliation resolution, or both, carrying out all such recommendations without any substantive revisions. In the event that a committee instructed in a resolution referred to in subparagraph (B) fails to submit any recommendation (or, when only one committee is instructed, fails to report a reconciliation bill or resolution) in response to such instructions, the Budget Committee shall include in the reconciliation bill or reconciliation resolution reported pursuant this subparagraph legislative language within the jurisdiction of the noncomplying committee to achieve the amount of deficit reduction directed in such instructions.

(E) POINT OF ORDER.—It shall not be in order in the Senate to consider any reconciliation bill or reconciliation resolution reported under subparagraph (D) with respect to a fiscal year, any amendment thereto, or any conference report thereon if—

(i) the enactment of such bill or resolution as reported;

(ii) the adoption and enactment of such amendment; or

(iii) the enactment of such bill or resolution in the form recommended in such conference report,

would cause the amount of the deficit for such fiscal year to exceed the maximum deficit amount for such fiscal year, and for fiscal year 1988 or 1989, exceed the amount of the estimated deficit for such fiscal year based on laws and regulations in effect on January 1 of the calendar year in which such fiscal year begins as measured using the budget baseline specified in section 251(a)(6) of the Balanced Budget and Emergency Deficit Control Act of 1985 minus $23,000,000,000 for fiscal year 1988 or $36,000,000,000 for fiscal year 1989; unless the report submitted under section 251(c)(1) projects negative real economic growth for such fiscal year, or for each of any two consecutive quarters during such fiscal year.

(F) TREATMENT OF CERTAIN AMENDMENTS.—In the Senate, an amendment which adds to a resolution reported under subparagraph (B) an instruction of the type referred to in such subparagraph shall be in order during the consideration of such resolution if such amendment would be in order but for the fact that it would be held to be nongermane on the basis that the instruction constitutes new matter.

(G) DEFINITION.—For purposes of subparagraphs (A), (B), and (C), the term "day" shall mean any calendar day on which the Senate is in session.

(2) PROCEDURES.—

(A) IN GENERAL.—Except as provided in subparagraph (B), in the Senate the provisions of sections 305 and 310 of the Congressional Budget Act of 1974 for the consideration of concurrent resolutions on the budget and conference reports thereon shall also apply to the consideration of resolutions, and reconciliation bills and reconciliation resolutions reported under this paragraph and conference reports thereon.

(B) LIMIT ON DEBATE.—Debate in the Senate on any resolution reported pursuant to paragraph (1)(B), and all amendments thereto and debatable motions and appeals in connection therewith, shall be limited to 10 hours.

(C) LIMITATION ON AMENDMENTS.—Section 310(d)(2) of the Congressional Budget Act shall apply to reconciliation bills and reconciliation resolutions reported under this subsection.

(D) BILLS AND RESOLUTIONS RECEIVED FROM THE HOUSE.—Any bill or resolution received in the Senate from the House, which is a companion to a reconciliation bill or reconciliation resolution of the Senate for the purposes of this subsection, shall be considered in the Senate pursuant to the provisions of this subsection.

(E) DEFINITION.—For purposes of this subsection, the term "resolution" means a simple, joint, or concurrent resolution.

(c) CERTAIN RESOLUTIONS TREATED AS RECONCILIATION BILLS.—Resolutions described in subsection (b) of this section and bills reported as a result thereof shall be considered in the Senate to be reconciliation bills or resolutions for purposes of the Congressional Budget Act of 1974.

[NOTE: Section 254(b) contains no comparable procedures for reporting and consideration in the House, leaving it to the House to adopt special rules governing such reporting and consideration.]

SEC. 258. MODIFICATION OF PRESIDENTIAL ORDER.

(a) INTRODUCTION OF JOINT RESOLUTION.—At any time after the Director of OMB issues a report under section 251(c)(2) for a fiscal year, but before the close of the tenth calendar day of session in that session of Congress beginning after the date of issuance of such report, the majority leader of either House of Congress may introduce a joint resolution which contains provisions directing the President to modify the most recent order issued under section 252 for such fiscal year. After the introduction of the first such joint resolution in either House of Congress in any calendar year, then no other joint resolution introduced in such House in such calendar year shall be subject to the procedures set forth in this section.

(b) PROCEDURES FOR CONSIDERATION OF JOINT RESOLUTIONS.—

(1) NO REFERRAL TO COMMITTEE.—A joint resolution introduced in the Senate or the House of Representatives under subsection (a) shall not be referred to a committee of the Senate or the House of Representatives, as the case may be, and shall be placed on the appropriate calendar pending disposition of such joint resolution in accordance with this subsection.

(2) IMMEDIATE CONSIDERATION.—On or after the third calendar day (excluding Saturdays, Sundays, and legal holidays) beginning after a joint resolution is introduced under subsection (a), notwithstanding any rule or precedent of the Senate, including Rule 22 of the Standing Rules of the Senate, it is in order (even though a previous motion to the same effect has been disagreed to) for any Member of the respective House to move to proceed to the consideration of the joint resolution, and all points of order against the joint resolution (and against consideration of the joint resolution) are waived, except for points of order under titles III or IV of the Congressional Budget Act of 1974. The motion is not in order after the eighth calendar day (excluding Saturdays, Sundays, and legal holidays) beginning after a joint resolution (to which the motion applies) is introduced. The motion is highly privileged in the House of Representatives and is privileged in the Senate and is not debatable. The

motion is not subject to amendment, or to a motion to postpone, or to a motion to proceed to the consideration of other business. A motion to reconsider the vote by which the motion is agreed to or disagreed to shall not be in order. If a motion to proceed to the consideration of the joint resolution is agreed to, the respective House shall immediately proceed to consideration of the joint resolution without intervening motion, order, or other business, and the joint resolution shall remain the unfinished business of the respective House until disposed of.

(3) DEBATE.—

(A) In the Senate, debate on a joint resolution introduced under subsection (a), amendments thereto, and all debatable motions and appeals in connection therewith shall be limited to not more than 10 hours, which shall be divided equally between the majority leader and the minority leader (or their designees). In the House, general debate on a joint resolution introduced under subsection (a) shall be limited to not more than 4 hours which shall be equally divided between the majority and minority leaders.

(B) A motion to postpone, or a motion to proceed to the consideration of other business is not in order. A motion to reconsider the vote by which the joint resolution is agreed to or disagreed to is not in order. In the Senate, a motion to recommit the joint resolution is not in order. In the House, a motion further to limit debate is in order and not debatable. In the House, a motion to recommit is in order.

(C)(i) In the House of Representatives, an amendment and any amendment thereto is debatable for not to exceed 30 minutes to be equally divided between the proponent of the amendment and a Member opposed thereto.

(ii) No amendment that is not germane or relevant to the provisions of the joint resolution or to the order issued under section 252(b)(1) shall be in order in the Senate. In the Senate, an amendment, any amendment to an amendment, or any debatable motion or appeal is debatable for not to exceed 30 minutes to be equally divided between the majority leader and the minority leader (or their designees).

(iii) In the Senate, an amendment that is otherwise in order shall be in order notwithstanding the fact that it amends the joint resolution in more than one place or amends language previously amended. It shall not be in order in the Senate to vote on the question of agreeing to such a joint resolution or any amendment thereto unless the figures then contained in such joint resolution or amendment are mathematically consistent.

(4) VOTE ON FINAL PASSAGE.—Immediately following the conclusion of the debate on a joint resolution introduced under subsection (a), a single quorum call at the conclusion of the debate if requested in accordance with the rules of the appropriate House, and the disposition of any amendments under paragraph (3) (except, for the motion to recommit in the House of Representatives), the vote on final passage of the joint resolution shall occur.

(5) APPEALS.—Appeals from the decisions of the Chair relating to the application of the rules of the Senate or the House of Representatives, as the case may be, to the procedure relating to a joint resolution described in subsection (a) shall be decided without debate.

(6) CONFERENCE REPORTS.—In the Senate, points of order under titles III and IV of the Congressional Budget Act of 1974 (including points of order under sections 302(c), 303(a), 306, and 401(b)(1)) are applicable to a conference report on the joint resolution or any amendments in disagreement thereto.

(7) RESOLUTION FROM OTHER HOUSE.—If, before the passage by the Senate of a joint resolution of the Senate introduced under subsection (a), the Senate receives from the House of Representatives a joint resolution introduced under subsection (a), then the following procedures shall apply:

(A) The joint resolution of the House of Representatives shall not be referred to a committee.

(B) With respect to a joint resolution introduced under subsection (a) in the Senate—

(i) the procedure in the Senate shall be the same as if no joint resolution had been received from the House; but

(ii)(I) the vote on final passage shall be on the joint resolution of the House if it is identical to the joint resolution then pending for passage in the Senate; or

(II) if the joint resolution from the House is not identical to the joint resolution then pending for passage in the Senate and the Senate then passes it, the Senate shall be considered to have passed the joint resolution as amended by the text of the Senate joint resolution.

(C) Upon disposition of the joint resolution received from the House, it shall no longer be in order to consider the resolution originated in the Senate.

(8) SENATE ACTION ON HOUSE RESOLUTION.—If the Senate receives from the House of Representatives a joint resolution introduced under subsection (a) after the Senate has disposed of a Senate originated resolution which is identical to the House passed joint resolution, the action of the Senate with regard to the disposition of the Senate originated joint resolution shall be deemed to be the action of the Senate with regard to the House originated joint resolution. If it is not identical to the House passed joint resolution, then the Senate shall be considered to have passed the joint resolution of the House as amended by the text of the Senate joint resolution.

PART E—MISCELLANEOUS AND RELATED PROVISIONS

SEC. 271. WAIVERS AND SUSPENSIONS; RULEMAKING POWERS.

(a) BUDGET ACT WAIVERS IN THE SENATE.—Section 904 of the Congressional Budget Act of 1974 is amended by redesignating subsection (c) as subsection (d), and by inserting after subsection (b) the following new subsection:

"(c) Sections 305(b)(2) and 306 of this Act may be waived or suspended in the Senate only by the affirmative vote of three-fifths of the Members, duly chosen and sworn.".

(b) OTHER WAIVERS AND SUSPENSIONS IN THE SENATE.—Sections 301(i), 302(c), 302(f), 304(b), 310(d), 310(g), and 311(a) of the Congressional Budget Act of 1974 may be waived or suspended in the Senate only by the affirmative vote of three-fifths of the Members, duly chosen and sworn. This subsection shall not apply to any joint resolution reported or discharged pursuant to section 254(a) of this joint resolution.

(c) APPEALS OF RULINGS.—An affirmative vote of three-fifths of the Members of the Senate, duly chosen and sworn, shall be required in the Senate to sustain an appeal of the ruling of the Chair on a point of order raised under section 301(i), 302(c), 302(f), 304(b), 306, 310(d), 310(g), or 311(a) of the Congressional Budget Act of 1974.

(d) RULEMAKING POWERS.—The provisions of this title, other than those relating to the activities of the executive and judicial branches of the Government, are enacted by the Congress—

(1) as an exercise of the rulemaking power of the House of Representatives and the Senate, respectively, and as such they shall be considered as part of the rules of each House, respectively, or of that House to which they specifically apply, and such rules shall supersede other rules only to the extent that they are inconsistent therewith; and

(2) with full recognition of the constitutional right of either House to change such rules (so far as relating to such House) at any time, in the same manner and to the same extent as in the case of any other rule of such House.

* * * * *

SEC. 273. REVENUE ESTIMATES.

For the purposes of revenue legislation which is income, estate and gift, excise, and payroll taxes (i.e., Social Security), considered or enacted in any session of Congress, the Congressional Budget Office shall use exclusively during that session of Congress revenue estimates provided to it by the Joint Committee on Taxation. During that session of Congress such revenue estimates shall be transmitted by the Congressional Budget Office to any committee of the House of Representatives or the Senate requesting such estimates, and shall be used by such Committees in determining such estimates. The Budget Committees of the Senate and House shall determine all estimates with respect to scoring points of order and with respect to the execution of the purposes of this title and the Congressional Budget and Impoundment Control Act of 1974.

SEC. 274. JUDICIAL REVIEW.

(a) EXPEDITED REVIEW.—

(1) Any Member of Congress may bring an action, in the United States District Court for the District of Columbia, for declaratory judgment and injunctive relief on the ground that any order that might be issued pursuant to section 252 violates the Constitution.

* * * * *

(f) ALTERNATIVE PROCEDURES FOR THE JOINT REPORTS OF THE DIRECTORS.—

(1) In the event that any of the reporting procedures described in section 251 are invalidated, then any report of the Director of CBO under section 251(a)(2)(A) or 251(c)(1) shall be transmitted to the joint committee established under this subsection.

(2) Upon the invalidation of any such procedure there is established a Temporary Joint Committee on Deficit Reduction, composed of the entire membership of the Budget Committees of the House of Representatives and the Senate. The Chairman of these two committees shall act as Co-Chairmen of the Joint Committee. Actions taken by the Joint Committee shall be determined by the majority vote of the members representing each House. The purposes of the Joint Committee are to receive the reports of the Director of OMB as described in paragraph (1), and to report (with respect to each such report of the Director of OMB) a joint resolution as described in paragraph (3).

(3) No later than 5 days after the receipt of a report of the Director of OMB in accordance with paragraph (1), the Joint Committee shall report to the House of Representatives and the Senate a joint resolution setting forth the contents of the report of the Director of OMB.

(4) The provisions relating to the consideration of a joint resolution under section 254(a)(4) shall apply to the consideration of a joint resolution reported pursuant to this subsection in the House of Representatives and the Senate, except that debate in each House shall be limited to two hours.

(5) Upon its enactment, the joint resolution shall be deemed to be the report received by the President under section 251(a)(2)(B) or (c)(2) (whichever is applicable).

(g) PRESERVATION OF OTHER RIGHTS.—The rights created by this section are in addition to the rights of any person under law, subject to subsection (e).

(h) ECONOMIC DATA, ASSUMPTIONS, AND METHODOLOGIES.—The economic data and economic assumptions used by the Director of OMB in computing the base levels of total revenues and total budget outlays, as specified in any report issued by the Director of OMB under section 251(a)(2)(B) or (c)(2), shall not be subject to review in any judicial or administrative proceeding.

The Supreme Court invalidated the reporting procedures of section 251 in the case of *Bowsher* v. *Synar*, 478 U.S. —— (1986) thereby triggering the alternative procedures set forth in section 274 of the Act. Under these "fallback" procedures a Temporary Joint Committee on Deficit Reduction, composed of the entire membership of the Budget Committees of the House and Senate, receives the report of the Directors of the Congressional Budget Office and Office of Management and Budget. The Speaker announced the creation of the Temporary Joint Committee on July 14, 1986 (p. ——) and Feb. 23, 1987 (p. ——).

SEC. 275. EFFECTIVE DATES.

(a) IN GENERAL.—

(1) Except as provided in paragraph (2) and in subsections (b) and (c), this title and the amendments made by this title shall become effective on the date of the enactment of this title and shall apply with respect to fiscal years beginning after September 30, 1985.

(2)(A) The amendment made by section 201(a)(2), and the amendment made by section 201(b) insofar as it relates to subsections (c), (f), and (g) of section 302 of the Congressional Budget Act of 1974 and to subsections (c), (d), and (g) of section 310 of that Act, shall become effective April 15, 1986.

(B) The amendment made by section 212 shall become effective February 1, 1986.

(b) EXPIRATION.—

(1) Part C of this title, and the other provisions contained in or added by this title which are listed in paragraph (2), shall expire September 30, 1993.

(2) The other provisions referred to in paragraph (1) are as follows:

(A) section 3(7) of the Congressional Budget and Impoundment Control Act of 1974 and the second sentence of section 3(6) of such Act (as added by section 201(a)(1) of this joint resolution);

(B) sections 301(i) and 304(b) of the Congressional Budget Act of 1974 and the portion of section 311(a) of such Act which begins with "or, in the Senate" and ends with "paragraph (2) of such subsection)" (as added by section 201(b) of this joint resolution);

(C) sections 1105(f) and 1106(c) of title 31, United States Code (as added by sections 241(b) and 242(b) of this joint resolution); and

(D) subsections (b) and (c) of section 271 of this joint resolution.

(c) OASDI TRUST FUNDS.—The amendments made by part D shall apply as provided in such part.

"CONGRESSIONAL DISAPPROVAL" PROVISIONS CONTAINED IN PUBLIC LAWS

§ 1013. Congress has, from time to time, passed laws providing procedures whereby Congress has reserved to itself an absolute or limited right of review by approval or disapproval of certain actions of the Executive Branch or of independent agencies, and, in one case, rules of evidence prescribed by the Supreme Court. These procedures envision some form of congressional action on a simple, concurrent, or joint resolution of disapproval or approval either within a specified time period or whenever either or both Houses choose to act. Such action, and the procedures permitted to accomplish that action, for the purposes of this discussion, fall into one of three general categories: (A) those in which the resolution must be acted upon by either or both Houses and which are privileged under certain conditions for consideration in the House; (B) those in which the resolution must be acted upon by either or both Houses but which must be considered under regular House procedure, there being no special privilege attached to their consideration; and (C) those in which the resolution need only be acted upon by designated committees of either or both Houses.

On June 23, 1983, the Supreme Court held in *Immigration and Naturalization Service v. Chadha* et al., 462 U.S. 919 (1983) that a statute [8 U.S.C. 1254(c)(2)] authorizing one House of Congress, by resolution, to invalidate a decision of the Executive Branch, pursuant to authority delegated by Congress to the Attorney General of the United States, to allow a particular deportable alien to remain in the United States, was unconstitutional as in violation of Art. I sec. 7, the "presentment clause" and the doctrine of separation of powers. Subsequently on July 6, 1983, the Supreme Court summarily affirmed (463 U.S. 1216) a U.S. Court of Appeals decision in *Consumer Energy Council of America v. FERC,* 673 F.2d 425 (D.C. Cir. 1982), declaring unconstitutional the one House resolution of disapproval provisions relating to incremental pricing actions in the Natural Gas Policy Act (15 U.S.C. 3332, 3342, 3417), and summarily affirmed (463 U.S. 1216) a U.S. Court of Appeals decision in *Consumers Union, Inc. v. FTC,* (D.C. Cir. 1982) declaring unconstitutional the House concurrent resolution of disapproval of final rules promulgated by the Federal Trade Commission. Prior to the *Chadha* decision, a Federal Court of Appeals had held invalid in *AFGE v. Pierce,* 697 F.2d 303, (D.C. Cir. 1982) a proviso in Public Law 97–272 (96 Stat. 1164) prohibiting the availability until after January 1, 1983, without the prior approval of the Committees on Appropriations, of funds appropriated in fiscal year 1983 to the Department of Housing and Urban Development for any departmental reorganization. It should be noted that in *Atkins v. United States,* 556 F.2d 1028 (Ct. Cl. 1977), cert. denied, 434 U.S. 1009 (1978), the Court of Claims held, four to three, that the provisions of the Federal Salary Act of 1967, 2 U.S.C. 359(1)(B), which permit one House of Congress to disapprove the President's proposed pay schedule under the Act, are not unconstitutional, and that the Senate's veto of a proposed judicial salary increase was therefore valid.

Therefore, all of the provisions of law containing simple or concurrent resolution approval or disapproval procedures should be read in light of *Chadha.* Since that decision, Congress has amended several statutes to convert procedures involving simple or concurrent resolutions of approval or disapproval to procedures requiring joint resolutions which will be presented to the President for his signature or returned for a possible veto override, consistent with the "presentment" clause of Art. I, sec. 7.

The following is a compilation of category (A) statutory provisions of current relevance providing a variety of "Congressional disapproval" procedures designed to require action by the House and/or Senate and attaching a privilege under certain conditions for consideration in the House, together with any annotations containing decisions of the Chair interpreting the procedures contained in those statutes. Emphasis in this compilation is on procedural provisions; portions of statutes not related to this topic have been omitted. It should be noted that such laws were enacted expressly or impliedly as an exercise of the rulemaking authority of the House and/or Senate, acknowledging the Constitutional right of either House to change its rules at any time, and acknowledging implicitly or explicitly the right of the House Committee on Rules to report a resolution for the consideration of any measure, and were formally re-incorporated by reference into the rules of the House in the resolution adopting the rules of the House in a new Congress. Therefore, all such provisions should be construed together with rules subsequently adopted by the House and Senate which might be inconsistent with provisions contained in those statutes.

This compilation no longer includes those procedures described above as categories (B) and (C). Those provisions (B) where no special privilege attaches to consideration of resolutions are not technically rules of the House which are readopted each Congress. With respect to (C), many provisions requiring committee approval are carried in the annual general appropriation acts and often relate to appropriations made only for a specific fiscal period.

However, a list of permanent statutes is included and the reader should refer to the current provisions in the U.S. Code and Statutes at Large for the text of laws containing permanent House or committee disapproval provisions which do not include privileged procedures.

A. Resolutions Which Are Privileged for Consideration in the House

1. Executive Reorganization.
1a. Department of Defense Reorganization.
2. War Powers Act.
2a. Sinai early-warning system.
3. National Emergencies Act.
3a. International Emergency Economic Powers Act.
4. District of Columbia Home Rule.
5. Impoundment Control Act of 1974.
5a. Disposition of Foreign Spent Nuclear Fuel.
6. Pension Reform Act.
6a. Multiemployer Guarantees, revised schedules.
7. Nuclear Non-Proliferaton Act.
8. Presidential Recordings and Materials Preservation Act.
9. Trade Act of 1974.
    A. Import Relief.
    B. Freedom of Emigration.
    C. Nondiscriminatory Treatment of Foreign Products and Commercial Agreements.
    D. House procedure for disapproval of Executive actions under the Trade Act.
9a. Child Support Standards under Title IV of Social Security Act.
10. Arms Control and Disarmament.
11. Annual Pay Reports and Adjustments.
12. Energy Policy and Conservation Act.
12a. Extension of Emergency Authorities.
12b. Nuclear Waste Fund fees.
13. Arms Export Control Act.

13a. Commercial Exports of Defense Articles and Defense Services.
13a-1. Third Country Transfer of Military Equipment.
13b. Leases of Defense Articles.
13c. Nuclear Transfers and Detonations.
14. Federal Election Commission Regulations.
15. Alaska Natural Gas Transportation Act of 1976.
15a. Crude Oil Transportation Systems.
15b. Alaska National Need Mineral Activity Recommendation Process.
16. Federal Land Policy and Management Act of 1976.
    A. Land Use Planning.
    B. Sales.
    C. Withdrawals.
    D. Review of Withdrawals.
17. International Fishery Agreements.
18. Outer Continental Shelf Lands Act.
19. Natural Gas Policy Act.
20. Federal Trade Commission Improvements Act of 1980.
21. Energy Security Act.
    A. Synthetic fuels authorities of President.
    B. U.S. Synthetic Fuels Corporation.
22. Nuclear Waste Policy Act of 1982.
    A. Repositories for Disposal of High-Level Radioactive Waste and Spent Nuclear Fuel.
    B. Interim Storage Program.
    C. Monitored Retrievable Storage.
23. Marine Sanctuaries Amendments of 1984.
24. Anti-Apartheid Act of 1986.
25. Anti-Drug Abuse Act of 1986.
26. Narcotics Control Trade Act.
27. Assistance to Nicaraguan democratic resistance.
28. Additional economic assistance for the Central American Democracies.

A. RESOLUTIONS WHICH ARE PRIVILEGED FOR CONSIDERATION IN THE HOUSE

1. Executive Reorganization [5 U.S.C. 902–912; Public Law 81–109 as amended by Public Law 95–17, by Public Law 96–230 and by Public Law 98–614.]

§ 902. Definitions

For the purpose of this chapter—

(1) "agency" means—

(A) an Executive agency or part thereof; and

(B) an office or officer in the executive branch;

but does include the General Accounting Office or the Comptroller General of the United States;

(2) "reorganization" means a transfer, consolidation, coordination, authorization, or abolition, referred to in section 903 of this title; and

(3) "officer" is not limited by section 2104 of this title.

§ 903. Reorganization plans

(a) Whenever the President, after investigation, finds that changes in the organization of agencies are necessary to carry out any policy set forth in section 901(a) of this title, he shall prepare a reorganization plan specifying the reorganizations he finds are necessary. Any plan may provide for—

(1) the transfer of the whole or a part of an agency, or of the whole or a part of the functions thereof, to the jurisdiction and control of another agency;

(2) the abolition of all or a part of the functions of an agency, except that no enforcement function or statutory program shall be abolished by the plan;

(3) the consolidation or coordination of the whole or a part of an agency, or of the whole part of the functions thereof, with the whole or a part of another agency or the functions thereof;

(4) the consolidation or coordination of a part of an agency or the functions thereof with another part of the same agency or the functions thereof;

(5) the authorization of an officer to delegate any of his functions; or

(6) the abolition of the whole or a part of an agency which agency or part does not have, or on the taking effect of the reorganization plan will not have, any functions.

The President shall transmit the plan (bearing an identification number) to the Congress together with a declaration that, with respect to each reorganization included in the plan, he has found that the reorganization is necessary to carry out any policy set forth in section 901(a) of this title.

(b) The President shall have a reorganization plan delivered to both Houses on the same day and to each House while it is in session, except that no more than three plans may be pending before the Congress at one time. In his message transmitting a reorganization plan, the President shall specify with respect to each abolition of a function included in the plan the statutory authority for the exercise of the function. The message shall also estimate any reduction or increase in expenditures (itemized so far as practicable), and describe any improvements in management, delivery of Federal services, execution of the laws, and increases in efficiency of Government operations, which it is expected will be realized as a result of the reorganizations included in the plan. In addition, the President's message shall include an implementation section which shall (1) describe in detail (A) the actions necessary or planned to complete the reorganization, (B) the anticipated nature and substance of any orders, directives, and other administrative and operational actions which are expected to be required for completing or implementing the reorganization, and (C) any preliminary actions which have been taken in the implementation process, and (2) contain a projected timetable for completion of the implementation process. The President shall also submit such further background or other information as the Congress may require for its consideration of the plan.

(c) Any time during the period of 60 calendar days of continuous session of Congress after the date on which the plan is transmitted to it, but before any resolution described in section 909 has been ordered reported in either House, the President may make amendments or modifications to the plan, consistent with sections 903–905 of this title, which modifications or revisions shall thereafter be treated as a part of the reorganization plan originally transmitted and shall not affect in any way the time limits otherwise provided for in this chapter. The President may withdraw the plan any time prior to the conclusion of 90 calendar days of continuous session of Congress following the date on which the plan is submitted to Congress.

* * * * *

§ 905. Limitations on powers

(a) A reorganization plan may not provide for, and a reorganization under this chapter may not have the effect of—

(1) creating a new executive department or renaming an existing executive department, abolishing or transferring an executive department or independent regulatory agency, or all the functions thereof, or consolidating two or more executive departments or two or more independent regulatory agencies, or all the functions thereof;

(2) continuing an agency beyond the period authorized by law for its existence or beyond the time when it would have terminated if the reorganization had not been made;

(3) continuing a function beyond the period authorized by law for its exercise or beyond the time when it would have terminated if the reorganization had not been made;

(4) authorizing an agency to exercise a function which is not expressly authorized by law at the time the plan is transmitted to Congress;

(5) creating a new agency which is not a component or part of an existing executive department or independent agency;

(6) increasing the term of an office beyond that provided by law for the office; or

(7) dealing with more than one logically consistent subject matter.

(b) A provision contained in a reorganization plan may take effect only if the plan in transmitted to Congress (in accordance with section 903(b) of this chapter) on or before December 31, 1984.

§ 906. Effective date and publication of reorganization plans

(a) Except as provided under subsection (c) of this section, a reorganization plan shall be effective upon approval by the President of a resolution (as defined in section 909) with respect to such plan, if such resolution is passed by the House of Representatives and the Senate, within the first period of 90 calendar days of continuous session of Congress after the date on which the plan is transmitted to Congress. Failure of either House to act upon such resolution by the end of such period shall be the same as disapproval of the resolution.

(b) For the purpose of this chapter—

(1) continuity of session is broken only by an adjournment of Congress sine die; and

(2) the days on which either House is not in session because of an adjournment of more than three days to a day certain are excluded in the computation of any period of time in which Congress is in continuous session.

(c) Under provisions contained in a reorganization plan, any provision thereof may be effective at a time later than the date on which the plan otherwise is effective.

(d) A reorganization plan which is effective shall be printed (1) in the Statutes at Large in the same volume as the public laws and (2) in the Federal Register.

§ 908. Rules of Senate and House of Representatives on reorganization plans

Sections 909 throught 912 of this title are enacted by Congress—

(1) as an exercise of the rulemaking power of the Senate and the House of Representatives, respectively, and as such they are deemed a part of the rules of each House, respectively, but applicable only with respect to the procedure to be followed in that House in the case of resolutions with respect to any reorganization plans transmitted to Congress (in accordance with section 903(b) of this chapter) on or before December 31, 1984; and they supersede other rules only to the extent that they are inconsistent therewith; and

(2) with full recognition of the constitutional right of either House to change the rules (so far as relating to the procedure of that House) at any time, in the same manner and to the same extent as in the case of any other rule of that House.

§ 909. Terms of resolution

For the purpose of sections 908 through 912 of this title, "resolution" means only a joint resolution of the Congress, the matter after the resolving clause of which is as follows: "That the Congress approves the reorganization plan numbered transmitted to the Congress by the President on , 19 .", and includes such modifications and revisions as submitted by the President under section 903(c) of this chapter. The blank spaces therein are to be filled appropriately. The term does not include a resolution which specifies more than one reorganization plan.

§ 910. Introduction and reference of resolution

(a) No later than the first day of session following the day on which a reorganization plan is transmitted to the House of Representatives and the Senate under section 903, a resolution, as defined in section 909, shall be introduced (by request) in the House by the chairman of the Government Operations Committee of the House, or by a Member of Members of the House designated by such chairman; and shall be introduced (by request) in the

Senate by the chairman of the Governmental Affairs Committee of the Senate, or by a Member or Members of the Senate designated by such chairman.

(b) A resolution with respect to a reorganization plan shall be referred to the Committee on Governmental Affairs of the Senate and the Committee on Government Operations of the House (and all resolutions with respect to the same plan shall be referred to the same committee) by the President of the Senate or the Speaker of the House of Representatives, as the case may be. The committee shall make its recommendations to the House of Representatives or the Senate, respectively, within 75 calendar days of continuous session of Congress following the date of such resolution's introduction.

§ 911. Discharge of committee considering resolution

If the committee to which is referred a resolution introduced pursuant to subsection (a) of section 910 (or, in the absence of such a resolution, the first resolution introduced with respect to the same reorganization plan) has not reported such resolution or identical resolution at the end of 75 calendar days of continuous session of Congress after its introduction, such committee shall be deemed to be discharged from further consideration of such resolution and such resolution shall be placed on the appropriate calendar of the House involved.

§ 912. Procedure after report or discharge of committee; debate; vote on final passage

(a) When the committee has reported, or has been deemed to be discharged (under section 911) from further consideration of, a resolution with respect to a reorganization plan, it is at any time thereafter in order (even though a previous motion to the same effect has been disagreed to) for any Member of the respective House to move to proceed to the consideration of the resolution. The motion is highly privileged and is not debatable. The motion shall not be subject to amendment, or to a motion to postpone, or a motion to proceed to the consideration of other business. A motion to reconsider the vote by which the motion is agreed to or disagreed to shall not be in order. If a motion to proceed to the consideration of the resolution is agreed to, the resolution shall remain the unfinished business of the respective House until disposed of.

(b) Debate on the resolution, and on all debatable motions and appeals in connection therewith, shall be limited to not more than ten hours, which shall be divided equally between individuals favoring and individuals opposing the resolution. A motion further to limit debate is in order and not debatable. An amendment to, or a motion to postpone, or a motion to proceed to the consideration of other business, or a motion to recommit the resolution is not in order. A motion to reconsider the vote by which the resolution is passed or rejected shall not be in order.

(c) Immediately following the conclusion of the debate on the resolution with respect to a reorganization plan, and a single quorum call at the conclusion of the debate if requested in accordance with the rules of the appropriate House, the vote on final passage of the resolution shall occur.

(d) Appeals from the decisions of the Chair relating to the application of the rules of the Senate or the House of Representatives, as the case may be, to the procedure relating to a resolution with respect to a reorganization plan shall be decided without debate.

(e) If, prior to the passage by one House of a resolution of that House, that House receives a resolution with respect to the same reorganization plan from the other House, then—

"(1) the procedure in that House shall be the same as if no resolution had been received from the other House; but

"(2) the vote on final passage shall be on the resolution of the other House."

Pursuant to section 905(b) as amended by Public Law 98-614, the President's authority to submit reorganization plans under this statute expired on December 31, 1984.

1a. Department of Defense Reorganization [10 U.S.C. 125]

§ 125. Functions, powers, and duties: transfer, reassignment, consolidation, or abolition

(a) Subject to section 401 of title 50, the Secretary of Defense shall take appropriate action (including the transfer, reassignment, consolidation, or abolition of any function, power, or duty) to provide more effective, efficient, and economical administration and operation, and to eliminate duplication, in the Department of Defense. However, except as provided by subsections (b) and (c), a function, power, or duty vested in the Department of Defense, or an officer, official, or agency thereof, by law may not be substantially transferred, reassigned, consolidated, or abolished unless the Secretary reports the details of the proposed transfer, reassignment, consolidation, or abolition to the Committee on Armed Services of the Senate and House of Representatives. The transfer, reassignment, consolidation, or abolition concerned takes effect on the first day after the expiration of the first 30 days that Congress is in continuous session after the Secretary so reports, unless either of those Committees, within that period, reports a resolution recommending that the proposed transfer, reassignment, consolidation, or abolition be rejected by the Senate or the House of Representatives, as the case may be, because it—

(1) proposes to transfer, reassign, consolidate, or abolish a major combatant function, power, or duty assigned to the Army, Navy, Air Force, or Marine Corps by section 3062(b), 5012, 5013, or 8062(c) of this title; and

(2) would, in its judgment, tend to impair the defense of the United States.

If either of those Committees, within that period, reports such a resolution and it is not adopted by the Senate or the House of Representatives, as the case may be, within the first 40 days that Congress is in continuous session after that resolution is so reported, the transfer, reassignment, consolidation, or abolition concerned takes effect on the first day after the expiration of that forty-day period. For the purposes of this subsection, a session may be considered as not continuous only if broken by an adjournment of Congress sine die. However, in computing the period that Congress is in continuous session, days that the Senate or the House of Representatives is not in session because of an adjournment of more than three days to a day certain are not counted.

(b) Notwithstanding subsection (a), if the President determines it to be necessary because of hostilities or an imminent threat of hostilities, any function, power, or duty, including one assigned to the Army, Navy, Air Forces, or Marine Corps by section 3062(b), 5012, 5013, or 8062(c) of this title, may be transferred, reassigned, or consolidated. The transfer, reassignment, or consolidation remains in effect until the President determines that hostilities have terminated or that there is no longer an imminent threat of hostilities, as the case may be.

Section 303 of Public Law 87-651 [76 Stat. 525] provided that:

(a) For the purposes of this section, any resolution reported to the Senate or the House of Representatives pursuant to the provisions of section 125 of title 10, United States Code [this section], shall be treated for the purpose of consideration by either House, in the same manner as a resolution with respect to a reorganization plan reported by a committee within the meaning of the Reorganization Act of 1949 as in effect on July 1, 1958 (5 U.S.C. 133z and the following) [now covered by section 901 et seq. of title 5, Government Organization and Employees], and shall be governed by the provisions applicable to the consideration of any such resolution by either House of the Congress as provided by sections 205 and 206 of that Act [63 Stat. 207].

While this statute still contemplates simple resolutions of disapproval adopted by either House and should therefore be read in light of *INS v. Chadha*, 103 S.Ct. 2764 (1983), the law from which procedures are incorporated by reference (sec. 901 et seq. of title 5) has been amended to provide joint resolutions of approval of executive reorganization plans.

2. War Powers Act [Public Law 93-148; 50 U.S.C. 1544-1546, Sections 5-7]

SEC. 5. (a) Each report submitted pursuant to section 4(a)(1) shall be transmitted to the Speaker of the House of Representatives and to the President pro tempore of the Senate on the same calendar day. Each report so transmitted shall be referred to the Committee on Foreign Affairs of the House of Representatives and to the Committee on Foreign Relations of the Senate for appropriate action. If, when the report is transmitted, the Congress has adjourned sine die or has adjourned for any period in excess of three calendar days, the Speaker of the House of Representatives and the President pro tempore of the Senate, if they deem if advisable (or if petitioned by at least 30 percent of the membership of their respective Houses) shall jointly request the President to convene Congress in order that it may consider the report and take appropriate action pursuant to this section.

(b) Within sixty calendar days after a report is submitted or is required to be submitted pursuant to section 4(a)(1), whichever is earlier, the President shall terminate any use of United States Armed Forces with respect to which such report was submitted (or required to be submitted), unless the Congress (1) has declared war or has enacted a specific authorization for such use of United States Armed Forces, (2) has extended by law such sixty-day period, or (3) is physically unable to meet as a result of an armed attack upon the United States. Such sixty-day period shall be extended for not more than an additional thirty days if the President determines and certifies to the Congress in writing that unavoidable military necessity respecting the safety of United States Armed Forces requires the continued use of such armed forces in the course of bringing about a prompt removal of such forces.

(c) Notwithstanding subsection (b), at any time that United States Armed Forces are engaged in hostilities outside the territory of the United States, its possessions and territories without a declaration of war or specific statutory authorization, such forces shall be removed by the President if the Congress so directs by concurrent resolution.

This subsection (and section 7, infra) should be read in light of *INS v. Chadha*, 103 S.Ct. 2764 (1983).

SEC. 6. (a) Any joint resolution or bill introduced pursuant to section 5(b) at least thirty calendar days before the expiration of the sixty-day period specified in such section shall be referred to the Committee on Foreign Affairs of the House of Representatives or the Committee on Foreign Relations of the Senate, as the case may be, and such committee shall report one such joint resolution or bill, together with its recommendations, not later than twenty-four calendar days before the expiration of the sixty-day period specified in such section, unless such House shall otherwise determine by the yeas and nays.

(b) Any joint resolution or bill so reported shall become the pending business of the House in question (in the case of the Senate the time for debate shall be equally divided between the proponents and the opponents), and shall be voted on within three calendar days thereafter, unless such House shall otherwise determine by yeas and nays.

(c) Such a joint resolution or bill passed by one House shall be referred to the committee of the other House named in subsection (a) and shall be reported out not later than fourteen calendar days before the expiration of the sixty-day period specified in section 5(b). The joint resolution or bill so reported shall become the pending business of the House in question and shall be voted on within three calendar days after it has been reported, unless such House shall otherwise determine by yeas and nays.

(d) In the case of any disagreement between the two Houses of Congress with respect to a joint resolution or bill passed by both Houses, conferees shall be promptly appointed and the committee of conference shall make and file a report with respect to such resolution or bill not later than four calendar days before the expiration of the sixty-day period specified in section 5(b). In the event the conferees are unable to agree within 48 hours, they shall report back to their respective Houses in disagreement. Notwithstanding any rule in either House concerning the printing of conference reports in the Record or concerning any delay in the consideration of such reports, such report shall be acted on by both Houses not later than the expiration of such sixty-day period.

SEC. 7. (a) Any concurrent resolution introduced pursuant to section 5(c) shall be referred to the Committee on Foreign Affairs of the House of Representatives or the Committee on Foreign Relations of the Senate, as the case may be, and one such concurrent resolution shall be reported out by such committee together with its recommendations within fifteen calendar days, unless such House shall otherwise determine by the yeas and nays.

(b) Any concurrent resolution so reported shall become the pending business of the House in question (in the case of the Senate the time for debate shall be equally divided between the proponents and the opponents) and shall be voted on within three calendar days thereafter, unless such House shall otherwise determine by yeas and nays.

(c) Such a concurrent resolution passed by one House shall be referred to the committee of the other House named in subsection (a) and shall be reported out by such committee together with its recommendations within fifteen calendar days and shall thereupon become the pending business of such House and shall be voted upon within three calendar days, unless such House shall otherwise determine by yeas and nays.

(d) In the case of any disagreement between the two Houses of Congress with respect to a concurrent resolution passed by both Houses, conferees shall be promptly appointed and the committee of conference shall make and file a report with respect to such concurrent resolution within six calendar days after the legislation is referred to the committee of conference. Notwithstanding any rule in either House concerning the printing of conference reports in the Record or concerning any delay in the consideration of such reports, such report shall be acted on by both Houses not later than six calendar days after the conference report is filed. In the event the conferees are unable to agree within 48 hours, they shall report back to their respective Houses in disagreement.

In the 98th Congress, the Committee on Foreign Affairs reported a joint resolution, providing statutory authorization under the War Powers Act for a multinational peacekeeping force in Lebanon. The joint resolution would have been subject to consideration under the procedural provisions of the statute, but the House adopted a special order reported from the Committee on Rules varying the procedures for consideration of the joint resolution and also providing for consideration of a similar Senate joint resolution (H. Res. 318, Sept. 28, 1983, p. ——). The House subsequently passed a Senate joint resolution on the subject (S.J. Res. 159) which changed the rules of the House and Senate to provide special procedures for consideration of a joint resolution or bill to amend or repeal its provisions (Sept. 29, 1983, p. ——; Public Law 98-119. In the 98th Congress, as part of the State Department Authorization Act (Public Law 98-164), a privileged procedure was put in place for Senate consideration of bills or joint resolutions requiring removal of U.S. forces engaged in hostilities outside of U.S. territory where there is no declaration of war [see 97 Stat. 1062, § 1013, and 90 Stat. 765, § 601(b)].

2a. Sinai early-warning system [Public Law 94-110; 22 U.S.C. 2441 note; 89 Stat. 572, Section 2]

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the President is authorized to implement the "United States Proposal for the Early Warning System in Sinai": *Provided, however,* That United States civilian personnel assigned to Sinai under such proposal shall be removed immediately in the event of an outbreak of hostilities between Egypt and Israel or if the Congress by concurrent resolution determines that the safety of such personnel is jeopardized or that continuation of their role is no longer necessary. Nothing contained in this resolution shall be construed as granting any authority to the President with respect to the introduction of United States Armed Forces into hostilities or into situations wherein involvement in hostilities is clearly indicated by the circumstances which authority he would not have had in the absence of this joint resolution.

SEC. 2. Any concurrent resolution of the type described in the first section of this resolution which is introduced in either House of Congress shall be privileged in the same manner and to the same extent as a concurrent resolution of the type described in section 5(c) of Public Law 93-148 is privileged under section 7 of such law.

3. National Emergencies Act [Public Law 94-412; 90 Stat. 1255, as amended by Public Law 99-93 § 801; 50 U.S.C. 1621-22]

TITLE I—TERMINATING EXISTING DECLARED EMERGENCIES

SEC. 101. (a) All powers and authorities possessed by the President, any other officer or employee of the Federal Government, or any executive agency, as defined in section 105 of title 5, United States Code, as a result of the existence of any declaration of national emergency in effect on the date of enactment of this Act are terminated two years from the date of such enactment. Such termination shall not affect—

(1) any action taken or proceeding pending not finally concluded or determined on such date;

(2) any action or proceeding based on any act committed prior to such date; or

(3) any rights or duties that matured or penalties that were incurred prior to such date.

(b) For the purpose of this section, the words "any national emergency in effect" means a general declaration of emergency made by the President.

TITLE II—DECLARATIONS OF FUTURE NATIONAL EMERGENCIES

SEC. 201. (a) With respect to Acts of Congress authorizing the exercise, during the period of a national emergency, of any special or extraordinary power, the President is authorized to declare such national emergency. Such proclamation shall immediately be transmitted to the Congress and published in the Federal Register.

(b) Any provisions of law conferring powers and authorities to be exercised during a national emergency shall be effective and remain in effect (1) only when the President (in accordance with subsection (a) of this section), specifically declares a national emergency, and (2) only in accordance with this Act. No law enacted after the date of enactment of this Act shall supersede this title unless it does so in specific terms, referring to this title, and declaring that the new law supersedes the provisions of this title.

SEC. 202. (a) Any national emergency declared by the President in accordance with this title shall terminate if—

(1) there is enacted into law a joint resolution terminating the emergency; or

(2) the President issues a proclamation terminating the emergency.

Any national emergency declared by the President shall be terminated on the date specified in any concurrent resolution referred to in clause (1) or on the date specified in a proclamation by the President terminating the emergency as provided in clause (2) of this subsection, whichever date is earlier, and any powers or authorities exercised by reason of said emergency shall cease to be exercised after such specified date, except that such termination shall not affect—

(A) any action taken or proceeding pending not finally concluded or determined on such date;

(B) any action or proceeding based on any act committed prior to such date; or

(C) any rights or duties that matured or penalties that were incurred prior to such date.

(b) Not later than six months after a national emergency is declared, and not later than the end of each six-month period thereafter that such emergency continues, each House of Congress shall meet to consider a vote on a joint resolution to determine whether that emergency shall be terminated.

(c)(1) A joint resolution to terminate a national emergency delared by the President shall be referred to the appropriate committee of the House of Representatives or the Senate, as the case may be. One such joint resolution shall be reported out by such committee together with its recommendations within fifteen calendar days after the day on which such resolution is referred to such committee, unless such House shall otherwise determine by the yeas and nays.

(2) Any joint resolution so reported shall become the pending business of the House in question (in the case of the Senate the time for debate shall be equally divided between the proponents and the opponents) and shall be

voted on within three calendar days after the day on which such resolution is reported, unless such House shall otherwise determine by yeas and nays.

(3) Such a joint resolution passed by one House shall be referred to the appropriate committee of the other House and shall be reported out by such committee together within its recommendations within fifteen calendar days after the day on which such resolution is referred to such committee and shall thereupon become the pending business of such House and shall be voted upon within three calendar days after the day on which such resolution is reported, unless such House shall otherwise determine by yeas and nays.

(4) In the case of any disagreement between the two Houses of Congress with respect to a joint resolution passed by both Houses, conferees shall be promptly appointed and the committee of conference shall make and file a report with respect to such joint resolution within six calendar days after the day on which managers on the part of the Senate and the House have been appointed. Notwithstanding any rule in either House concerning the printing of conference reports or concerning any delay in the consideration of such reports, such report shall be acted on by both Houses not later than six calendar days after the conference report is filed in the House in which such report is filed first. In the event the conferees are unable to agree within forty-eight hours, they shall report back to their respective Houses in disagreement.

(5) Paragraphs (1)-(4) of this subsection (b) of this section, and section 502(b) of this Act are enacted by Congress—

(A) as an exercise of the rulemaking power of the Senate and the House of Representatives, respectively, and as such they are deemed a part of the rules of each House, respectively, but applicable only with respect to the procedure to be followed in the House in the case of resolutions described by this subsection; and they supersede other rules only to the extent that they are inconsistent therewith; and

(B) with full recognition of the constitutional right of either House to change the rules (so far as relating to the procedure of that House) at any time, in the same manner, and to the same extent as in the case of any other rule of that House.

(d) Any national emergency declared by the President in accordance with this title, and not otherwise previously terminated, shall terminate on the anniversary of the declaration of that emergency if, within the ninety-day period prior to each anniversary date, the President does not publish in the Federal Register and transmit to the Congress a notice stating that such emergency is to continue in effect after such anniversary.

3a. International Emergency Economic Powers Act [Public Law 95–223, §203, 207; 91 Stat. 1626, referenced section 202 was amended by Public Law 99–93, §801; 50 U.S.C. 1702, 1706]

SEC. 203. (a)(1) At the times and to the extent specified in section 202, the President may, under such regulations as he may prescribe, by means of instructions, licenses, or otherwise—

(A) investigate, regulate, or prohibit—

(i) any transactions in foreign exchange,

(ii) transfers of credit or payments between, by, through, or to any banking institution, to the extent that such transfers or payments involve any interest of any foreign country or a national thereof,

(iii) the importing or exporting of currency or securities; and

(B) investigate, regulate, direct and compel, nullify, void, prevent or prohibit, any acquisition, holding, withholding, use, transfer, withdrawal, transportation, importation or exportation of, or dealing in, or exercising any right, power, or privilege with respect to, or transactions involving, any property in whch any foreign country or a national thereof has any interest;

by any person, or with respect to any property, subject to the jurisdiction of the United States.

* * * * *

SEC. 207. (b) The authorities described in subsection (a)(1) may not continue to be exercised under this section if the natinal emergency is terminated by the Congress by (joint) resolution pursuant to section 202 of the National Emergencies Act and if the Congess specifies in such (joint) resolution that such authorities may not continue to be exercised under this section.

4. District of Columbia Home Rule [Public Law 93–198; 87 Stat. 774, Sections 303(b), 602(c), 604 D.C. Code §§ 1–233(c), 1–207; as amended by section 131 title I of Public Law 98–473]

SEC. 303 * * *

(b) An amendment to the charter ratified by the registered electors shall take effect upon the expiration of the 35-calendar-day period (excluding Saturdays, Sundays, holidays, and days on which either House of Congress is not in session) following the date such amendment was submitted to the Congress, or upon the date prescribed by such amendment to the Congress, or upon the date prescribed by such amendment, whichever is later, unless during such 35-day period, there has been enacted into law a joint resolution, in accordance with the procedures specified in section 604 of this Act, disapproving such amendment. In any case in which any such joint resolution disapproving such an amendment has, within such 35-day period, passed both Houses of Congress and has been transmitted to the President, such resolution, upon becoming law subsequent to the expiration of such 35-day period, shall be deemed to have repealed such amendment, as of the date such resolution becomes law.

SEC. 602 * * *

(c)(1) Except acts of the Council which are submitted to the President in accordance with the Budget and Accounting Act, 1921, any act which the Council determines according to section 412(a), should take effect immediately because of emergency circumstances, and acts proposing amendments to title IV of this Act, the Chairman of the Council shall transmit to the Speaker of the House of Representatives, and the President of the Senate a copy of each act passed by the Council and signed by the Mayor, or vetoed by the Mayor and repassed by two-thirds of the Council present and voting, each act passed by the Council and allowed to become effective by the Mayor without his signature, and each initiated act and act subject to referendum which has been ratified by a majority of the registered qualified electors voting on the intitiative or referendum. Except as provided in paragraph (2), such act shall take effect upon the expiration of the 30-calendar-day period (excluding Saturdays, Sundays, and holidays, and any day on which neither House is in session because of an adjournment sine die, a recess of more than three days, or an adjournment of more than three days) beginning on the day such act is transmitted by the Chairman to the Speaker of the House of Representatives and the President of the Senate, or upon the date prescribed by such act, whichever is later, unless during such 30-day period, there has been enacted into law a joint resolution disapproving such act. In any case in which any such joint resolution disapproving such an act has, within such 30-day period, passed both Houses of Congress and has been transmitted to the President, such resolution, upon becoming law, subsequent to the expiration of such 30-day period, shall be deemed to have repealed such act, as of the date such resolution becomes law. The provisions of section 604, except subsections (d), (e), and (f) of such section, shall apply with respect to any joint resolution disapproving any act pursuant to this paragraph.

(2) In the case of any such Act transmitted by the Chairman with respect to any Act codified in title 22, 23, or 24 of the District of Columbia Code, such act shall take effect at the end of the 60-day period beginning on the day such act is transmitted by the Chairman to the Speaker of the House of Representatives and the President of the Senate unless, during such 60-day period, there has been enacted into law a joint resolution disapproving such act. In any case in which any such joint resolution disapproving such an act has, within such 60-day period, passed both Houses of Congress and has been transmitted to the President, such resolution, upon becoming law subsequent to the expiration of such 60-day period shall be deemed to have repealed such act, as of the date such resolution becomes law. The provisions of section 604, relating to an expedited procedure for consideration of joint resolutions, shall apply to a joint resolution disapproving such act as specified in this paragraph.

CONGRESSIONAL ACTION ON CERTAIN DISTRICT MATTERS

SEC. 604. (a) This section is enacted by Congress—

(1) as an exercise of the rulemaking power of the Senate and the House of Representatives, respectively, and as such these provisions are deemed a part of the rule of each House, respectively, but applicable only with respect to the procedure to be followed in that House in the case of resolutions described by this

section; and they supersede other rules only to the extent that they are inconsistent therewith; and

(2) with full recognition of the constitutional right of either House to change the rule (so far as relating to the procedure of that House) at any time, in the same manner and to the same extent as in the case of any other rule of that House.

(b) For the purpose of this section, "resolution" means only a joint resolution, the matter after the resolving clause of which is as follows: "That the ----- approves/disapproves of the action of the District of Columbia Council described as follows: -------.", the blank spaces therein being appropriately filled, and either approval or disapproval being appropriately indicated; but does not include a resolution which specifies more than one action.

(c) A resolution with respect to Council action shall be referred to the Committee on the District of Columbia of the House of Representatives, or the Committee on the District of Columbia of the Senate, by the President of the Senate or the Speaker of the House of Representatives, as the case may be.

(d) If the committee to which a resolution has been referred has not reported it at the end of twenty calendar days after its introduction, it is in order to move to discharge the committee from further consideration of any other resolution with respect to the same Council action which has been referred to the committee.

(e) A motion to discharge may be made only by an individual favoring the resolution, is highly privileged (except that it may not be made after the committee has reported a resolution with respect to the same action), and debate thereon shall be limited to not more than one hour, to be divided equally between those favoring and those opposing the resolution. An amendment to the motion is not in order, and it is not in order to move to reconsider the vote by which the motion is agreed to or disagreed to.

(f) If the motion to discharge is agreed to or disagreed to, the motion may not be renewed, nor may another motion to discharge the committee be made with respect to any other resolution with respect to the same action.

(g) When the committee has reported, or has been discharged from further consideration of, a resolution, it is at any time therafter in order (even though a previous motion to the same effect has been disagreed to) to move to proceed to the consideration of the resolution. The motion is highly privileged and is not debatable. An amendment to the motion is not in order, and it is not in order to move to reconsider the vote by which the motion is agreed to or disagreed to.

(h) Debate on the resolution shall be limited to not more than ten hours, which shall be divided equally between those favoring and those opposing the resolution. A motion further to limit debate is not debatable. An amendment to, or motion to recommit, the resolution is not in order, and it is not in order to move to reconsider the vote by which the resolution is agreed to or disagreed to.

(i) Motions to postpone made with respect to the discharge from committee or the consideration of a resolution, and motions to proceed to the consideration of other business, shall be decided without debate.

(j) Appeals from the decisions of the Chair relating to the application of the rules of the Senate or the House of Representatives as the case may be, to the procedure relating to a resolution shall be decided without debate.

It is not in order to offer as privileged a motion to discharge the Committee on the District of Columbia from a simple (now joint) resolution disapproving an act passed by the D.C. City Council prior to the time that the Council was vested with the authority to pass the category of act to which the simple resolution disapproval procedure applies (Speaker Albert, Sept. 22, 1976, pp. 31873-4). The D.C. City Council subsequently having been vested with that authority, a motion to discharge the Committee on the District of Columbia from further consideration of a (joint) resolution disapproving an act of the Councial amending the D.C. Criminal Code is privileged after twenty calendar days from introduction of the resolution, if not reported during that time (Oct. 1, 1981, p. 22752; Oct. 14, 1987, p. ——).

Sec. 604 does not provide a privileged motion to discharge the District of Columbia Committee from a concurrent (now joint) resolution disapproving acts of the D.C. City Council not affecting the D.C. Criminal Code, such concurrent resolutions only being privileged when reported by that committee (Speaker Albert, Sept. 22, 1976, pp. 31873-4). Under section 604(h), debate on a concurrent (now joint) resolution of disapproval can be limited by motion, but otherwise extends not to exceed 10 hours; a concurrent (now joint) resolution disapproving an action of the D.C. Council which does not affect the U.S. Treasury is considered in the House (Dec. 20, 1979, p. 7303).

Public Law 95-526 amended section 602(c)(1) of the law with respect to computation of the 30-day period to exclude only adjournments in excess of three days. Public Law 98-473 amended section 602(c) to change simple and concurrent resolutions to joint resolutions of disapproval, and also extended from 30 to 60 days the period for Congressional review of D.C. Criminal Code revisions under 602(c)(2).

5. Impoundment Control Act of 1974 [Public Law 93-344, Sections 1011, 1012, 1013, 1017, as amended by Public Law 100-119; 2 U.S.C. 682-4, 688]

PART A—GENERAL PROVISIONS

DISCLAIMER

SEC. 1001. Nothing contained in this Act, or in any amendments made by this Act, shall be construed as—

(1) asserting or conceding the constitutional powers or limitations of either the Congress or the President;

(2) ratifying or approving any impoundment heretofore or hereafter executed or approved by the President or any other Federal officer or employee, except insofar as pursuant to statutory authorization then in effect;

(3) affecting in any way the claims or defenses of any party to litigation concerning any impoundment; or

(4) superseding any provision of law which requires the obligation of budget authority or the making of outlays thereunder.

* * * * *

PART B—CONGRESSIONAL CONSIDERATION OR PROPOSED RESCISSIONS, RESERVATIONS, AND DEFERRALS OF BUDGET AUTHORITY

DEFINITIONS

SEC. 1011. For purposes of this part—

(1) "deferral of budget authority" includes—

(A) withholding or delaying the obligation or expenditure of budget authority (whether by establishing reserves or otherwise) provided for projects or activities; or

(B) any other type of Executive action or inaction which effectively precludes the obligation or expenditure of budget authority, including authority to obligate by contract in advance of appropriations as specifically authorized by law;

(2) "Comptroller General" means the Comptroller General of the United States;

(3) "rescission bill" means a bill or joint resolution which only rescinds, in whole or in part, budget authority proposed to be rescinded in a special message transmitted by the President under section 1012, and upon which the Congress completes action before the end of the first period of 45 calendar days of continuous session of the Congress after the date on which the President's message is received by the Congress;

(4) "impoundment resolution" means a resolution of the House of Representatives or the Senate which only expresses its disapproval of a proposed deferral of budget authority set forth in a special message transmitted by the President under section 1013; and

(5) continuity of a session of the Congress shall be considered as broken only by an adjournment of the Congress sine die, and the days on which either House is not in session because of an adjournment of more than 3 days to a day certain shall be excluded in the computation of the 45-day period referred to in paragraph (3) of this section and in section 1012, and the 25-day periods referred to in sections 1016 and 1017(b)(1). If a special message is transmitted under section 1012 during any Congress and the last session of such Congress adjourns sine die before the expiration of 45 calendar days of continuous session (or a special message is so transmitted after the last session of the Congress adjourns sine die), the message shall be deemed to have been retransmitted on the first day of the succeeding Congress and the 45-day period referred to in paragraph (3) of this section and in section 1012 (with respect to such message) shall commence on the day after such first day.

RESCISSION OF BUDGET AUTHORITY

SEC. 1012. (a) TRANSMITTAL OF SPECIAL MESSAGE.—Whenever the President determines that all or part of any budget authority will not be required to carry out the full objectives or scope of programs for which it is provided or that such budget authority should be rescinded for fiscal policy or other reasons (including the termination of authorized projects or activities for which budget authority has been provided), or whenever all or part of budget authority provided for only one fiscal year is to be reserved from obligation for such fiscal year, the President shall transmit to both Houses of Congress a special message specifying—

(1) the amount of budget authority which he proposes to be rescinded or which is to be so reserved;

(2) any account, department, or establishment of the Government to which such budget authority is available for obligation, and the specific project or governmental functions involved;

(3) the reasons why the budget authority should be rescinded or is to be so reserved;

(4) to the maximum extent practicable, the estimated fiscal, economic, and budgetary effect of the proposed rescission or of the reservation; and

(5) all facts, circumstances, and considerations relating to or bearing upon the proposed rescission or the reservation and the decision to effect the proposed rescission or the reservation, and to the maximum extent practicable, the estimated effect of the proposed rescission or the reservation upon the objects, purposes, and programs for which the budget authority is provided.

(b) REQUIREMENT TO MAKE AVAILABLE FOR OBLIGATION.—Any amount of budget authority proposed to be rescinded or that is to be reserved as set forth in such special message shall be made available for obligation unless, within the prescribed 45-day period, the Congress has completed action on a rescission bill rescinding all or part of the amount proposed to be rescinded or that is to be reserved. Funds made available for obligation under this procedure may not be proposed for rescission again.

PROPOSED DEFERRALS OF BUDGET AUTHORITY

SEC. 1013. (a) TRANSMITTAL OF SPECIAL MESSAGE.—Whenever the President, the Director of the Office of Management and Budget, the head of any department or agency of the United States, or any officer or employee of the United States proposes to defer any budget authority provided for a specific purpose or project, the President shall transmit to the House of Representatives and the Senate a special message specifying—

(1) The amount of the budget authority proposed to be deferred;

(2) any account, department, or establishment of the Government to which such budget authority is available for obligation, and the specific projects or governmental functions involved;

(3) the period of time during which the budget authority is proposed to be deferred;

(4) the reasons for the proposed deferral, including any legal authority invoked to justify the proposed deferral;

(5) to the maximum extent practicable, the estimated fiscal, economic, and budgetary effect of the proposed deferral; and

(6) all facts, circumstances, and considerations relating to or bearing upon the proposed deferral and the decision to effect the proposed deferral, including an analysis of such facts, circumstances, and considerations in terms of their application to any legal authority, including specific elements of legal authority, invoked to justify such proposed deferral, and to the maximum extent practicable, the estimated effect of the proposed deferral upon the objects, purposes, and programs for which the budget authority is provided.

A special message may include one or more proposed deferrals of budget authority. A deferral may not be proposed for any period of time extending beyond the end of the fiscal year in which the special message proposing the deferral is transmitted to the House and the Senate.

(b) CONSISTENCY WITH LEGISLATIVE POLICY.—Deferrals shall be permissible only—

(1) to provide for contingencies;

(2) to achieve savings made possible by or through changes in requirements or greater efficiency of operations; or

(3) as specifically provided by law.

No officer or employee of the United States may defer any budget authority for any other purpose.

(c) EXCEPTION.—The provisions of this section do not apply to any budget authority proposed to be rescinded or that is to be reserved as set forth in a special message required to be transmitted under section 1012.

* * * * *

PROCEDURE IN HOUSE AND SENATE

SEC. 1017. (a) REFERRAL.—Any rescission bill introduced with respect to a special message or impoundment resolution introduced with respect to a proposed deferral of budget authority shall be referred to the appropriate committee of the House of Representatives or the Senate, as the case may be.

(b) DISCHARGE OF COMMITTEE.—

(1) If the committee of which a rescission bill or inpoundment resolution has been referred has not reported it at the end of 25 calendar days of continuous session of the Congress after its introduction, it is in order to move either to discharge the committee from further consideration of the bill or resolution or to discharge the committee from further consideration of any other rescission bill with respect to the same special message or impoundment resolution with respect to the same proposed deferral, as the case may be, which has been referred to the committee.

(2) A motion to discharge may be made only by an individual favoring the bill or resolution, may be made only if supported by one-fifth of the Members of the House involved (a quorum being present), and is highly privileged in the House and privileged in the Senate (except that it may not be made after the committee has reported a bill or resolution with respect to the same special message or the same proposed deferral, as the case may be); and debate thereon shall be limited to not more than 1 hour, the time to be divided in the House equally between those favoring and those opposing the bill or resolution, and to be divided in the Senate equally between, and controlled by, the majority leader and the minority leader or their designees. An amendment to the motion is not in order, and it is not in order to move to reconsider the vote by which the motion is agreed to or disagreed to.

(c) FLOOR CONSIDERATION IN THE HOUSE.—

(1) When the committee of the House of Representatives has reported, or has been discharged from further consideration of, a rescission bill or impoundment resolution, it shall at any time thereafter be in order (even though a previous motion to the same effect has been disagreed to) to move to proceed to the consideration of the bill or resolution. The motion shall be highly privileged and not debatable. An

amendment to the motion shall not be in order, nor shall it be in order to move to reconsider the vote by which the motion is agreed to or disagreed to.

(2) Debate on a rescission bill or impoundment resolution shall be limited to not more than 2 hours, which shall be divided equally between those favoring and those opposing the bill or resolution. A motion further to limit debate shall not be debatable. In the case of an impoundment resolution, no amendment to, or motion to recommit, the resolution shall be in order. It shall not be in order to move to reconsider the vote by which a rescission bill or impoundment resolution is agreed to or disagreed to.

(3) Motions to postpone, made with respect to the consideration of a rescission bill or impoundment resolution, and motions to proceed to the consideration of other business, shall be decided without debate.

(4) All appeals from the decisions of the Chair relating to the application of the Rules of the House of Representatives to the procedure relating to any rescission bill or impoundment resolution shall be decided without debate.

(5) Except to the extent specifically provided in the preceding provisions of this subsection, consideration of any rescission bill or impoundment resolution and amendments thereto (or any conference report thereon) shall be governed by the Rules of the House of Representatives applicable to other bills and resolutions, amendments, and conference reports in similar circumstances.

The privileged status in section 1017(c)(1) given to rescission bills within the 45-day period prescribed in section 1011 applies only to the initial consideration of the bill in the House, and consideration of a conference report on any bill containing rescissions of budget authority is subject only to the general rules of the House relating to conference reports and is not prevented by the expiration of the 45-day period following the initial consideration of the bill in the House (Speaker Albert, March 25, 1975, pp. 8484–5).

5a. Foreign Spent Nuclear Fuel [Public Law 95–238, Section 107; 92 Stat. 55; 22 U.S.C. 3224a]

Provided, That notwithstanding any other provision of law, that none of the funds made available to the Secretary of Energy under any other authorization or appropriation Act shall be used, directly or indirectly, for the repurchase, transportation or storage of any foreign spent nuclear fuel (including any nuclear irradiated in any nuclear power reactor located outside of the United States and operated by any foreign legal entity, government or nongovernment, regardless of the legal ownership or control of the fuel or the reactor, and regardless of the origin or licensing of the fuel or the reactor, but not including fuel irradiated in a research reactor, and not including fuel irradiated in a power reactor if the President determines that (1) use of funds for repurchase, transportation or storage of such fuel is required by an emergency situation, (2) it is in the interest of the common defense and security of the United States to take such action, and (3) he notifies the Congress of the determination and action, with a detailed explanation and justification thereof, as soon as possible) unless the President formally notifies, with the report information specified herein, the Committee on Energy and Natural Resources of the Senate and the Committee on Science and Technology of the House of Representatives of such use of funds thirty calendar days, during such time as either House of Congress is in session, before the commitment, expenditure, or obligation of such funds: *And provided further,* That, notwithstanding any other provision of law, that none of the funds appropriated pursuant to this Act or any other funds made available to the Secretary of Energy under any other authorization or appropriation Act shall be used, directly or indirectly, for the repurchase, transportation, or storage of any such foreign spent nuclear fuel for storage or other disposition, interim or permanent, in the United States, unless the use of the funds for that specific purpose has been (1) previously and expressly authorized by Congress in legislation hereafter enacted, (2) previously and expressly authorized by a concurrent resolution, or (3) the President submits a plan for such use, with the report information specified herein, thirty days during which the Congress is in continuous session, as defined in the Impoundment Control Act of 1974, prior to such use and neither House of Congress approves a resolution of disapproval of the plan prior to the expiration of the aforementioned thirty-day period. If such a resolution of disapproval has been introduced, but has not been reported by the Committee on or before the twentieth day after transmission of the Presidential message, a privileged motion shall be in order in the respective body to discharge the Committee from further consideration of the resolution and to provide for its immediate consideration, using the procedures specified for consideration of an impoundment resolution in section 1017 of the Impoundment Control Act of 1974 (2 U.S.C. 688).

6. Pension Reform Act [Public Law 93–406, Section 4006(b); 88 Stat. 829; 29 U.S.C. 1306(b)]

§ 4006. Revised Coverage Schedules

(b)(1) In order to place a revised schedule (other than a schedule described in subsection (a)(2) (C), (D) or (E) in effect, the corporation shall transmit the proposed schedule, its proposed effective date, and the reasons for its proposal to the Committee on Ways and Means and the Committee on Education and Labor of the House of Representatives, and to the Committee on Finance and the Committee on Labor and Human Resources of the Senate.

(2) The succeeding paragraphs of this subsection are enacted by Congress as an exercise of the rulemaking power of the Senate and the House of Representatives, respectively, and as such they shall be deemed a part of the rules of each House, respectively, but applicable only with respect to the procedure to be followed in that House in the case of resolutions described in paragraph (3). They shall supersede other rules only to the extent that they are inconsistent therewith. They are enacted with full recognition of the constitutional right of either House to change the rules (so far as relating to the procedure of that House) at any time, in the same manner and to the same extent as in the case of any rule of that House.

(3) For the purpose of the succeeding paragraphs of this subsection, "resolution" means only a concurrent resolution, the matter after the resolving clause of which is as follows: "That the Congress favors the proposed revised schedule transmitted to Congress by the Pension Benefit Guaranty Corporation on ——.", the blank space therein being filled with the date on which the corporation's message proposing the rate was delivered.

(4) A resolution shall be referred to the Committee on Ways and Means and the Committee on Education and Labor of the House of Representatives and to the Committee on Finance and the Committee on Labor and Human Resources of the Senate.

(5) If a committee to which has been referred a resolution has not reported it before the expiration of 10 calendar days after its introduction, it shall then (but not before) be in order to move to discharge the committee from further consideration of that resolution, or to discharge the committee from further consideration of any other resolution with respect to the proposed adjustment which has been referred to the committee. The motion to discharge may be made only by a person favoring the resolution, shall be highly privileged (except that it may not be made after the committee has reported a resolution with respect to the same proposed rate), and debate thereon shall be limited to not more than 1 hour, to be divided equally between those favoring and those opposing the resolution. An amendment to the motion is not in order, and it is not in order to move to reconsider the vote by which the motion is agreed to or disagreed to. If the motion to discharge is agreed to or disagreed to, the motion may not be renewed, nor may another motion to discharge the committee be made with respect to any other resolution with respect to the same proposed rate.

(6) When a committee has reported, or has been discharged from further consideration of a resolution, it is at any time thereafter in order (even though a previous motion to the same effect has been disagreed to) to move to proceed to the consideration of the resolution. The motion is highly privileged and is not debatable. An amendment to the motion is not in order, and it is not in order to move to reconsider the vote by which the motion is agreed to or disagreed to. Debate on the resolution shall be limited to not more than 10 hours, which shall be divided equally. A motion further to limit debate is not debatable. An amendment to or motion to recommit the resolution is not in order, and it is not in order to move to reconsider the vote by which the resolution is agreed to or disagreed to.

(7) Motions to postpone, made with respect to the discharge from committee, or the consideration of, a resolution and motions to proceed to the consideration of other business shall be decided without debate. Appeals from the decisions of the Chair relating to the application of the rules of the Senate or the House of Representatives, as the case may be, to the procedure relating to a resolution shall be decided without debate.

By unanimous consent, a concurrent resolution approving a revised coverage schedule proposed by the Pension Benefit Guaranty Corporation was considered in the House as in Committee of the Whole (Nov. 2, 1977, pp. 36644–6).

6a. Multiemployer Guarantees, revised schedules [Public Law 96–364, Section 102; 29 U.S.C. 1322a]

SEC. 102. MULTIEMPLOYER GUARANTEES; AGGREGATE LIMIT ON GUARANTEES.

Subtitle B of title IV [of the Employee Retirement Income Security Act of 1974] is amended by inserting at the end thereof the following new sections:

“MULTIEMPLOYER PLAN BENEFITS GUARANTEED

“SEC. 4022A.

* * * * *

“(f)(1) No later than 5 years after the date of the enactment of the Multiemployer Pension Plan Amendments Act of 1980, and at least every fifth year thereafter, the corporation shall—

“(A) conduct a study to determine—

“(i) the premiums needed to maintain the basic-benefit guarantee levels for multiemployer plans described in subsection (c), and

“(ii) whether the basic-benefit guarantee levels for multiemployer plans may be increased without increasing the basic-benefit premiums for multiemployer plans under this title; and

“(B) report such determinations to the Committee on Ways and Means and the Committee on Education and Labor of the House of Representatives and to the Committee on Finance and the Committee on Labor and Human Resources of the Senate.

“(2)(A) If the last report described in paragraph (1) indicates that a premium increase is necessary to support the existing basic-benefit guarantee levels for multiemployer plans, the corporation shall transmit to the Committee on Ways and Means and the Committee on Education and Labor of the House of Representatives and to the Committee on Finance and the Committee on Labor and Human Resources of the Senate by March 31 of any calendar year in which congressional action under this subsection is requested—

"(i) a revised schedule of basic-benefit guarantees for multiemployer plans which would be necessary in the absence of an increase in premiums approved in accordance with section 4006(b),

"(ii) a revised schedule of basic-benefit premiums for multiemployer plans which is necessary to support the existing basic-benefit guarantees for such plans, and

"(iii) a revised schedule of basic-benefit guarantees for multiemployer plans for which the schedule of premiums necessary is higher than the existing premium schedule for such plans but lower than the revised schedule of premiums for such plans specified in clause (ii), together with such schedule of premiums.

"(B) The revised schedule of increased premiums referred to in subparagraph (A)(ii) or (A)(iii) shall go into effect as approved by the Congress by concurrent resolution.

"(C) If an increase in premiums is not approved, the revised guarantee schedule described in subparagraph (A)(i) shall go into effect on the first day of the second calendar year following the year in which such revised guarantee schedule was submitted to the Congress.

"(3)(A) If the last report described in paragraph (1) indicates that basic-benefit guarantees for multiemployer plans can be increased without increasing the basic-benefit premiums for multiemployer plans under this title, the corporation shall submit to the Committee on Ways and Means and the Committee on Education and Labor of the House of Representatives and to the Committee on Finance and the Committee on Labor and Human Resources of the Senate by March 31 of the calendar year in which congressional action under this paragraph is requested—

"(i) a revised schedule of increases in the basic-benefit guarantees which can be supported by the existing schedule of basic-benefit premiums for multiemployer plans, and

"(ii) a revised schedule of basic-benefit premiums sufficient to support the existing basic-benefit guarantees.

"(B) The revised schedules referred to in subparagraph (A)(i) or subparagraph (A)(ii) shall go into effect as approved by the Congress by a concurrent resolution.

"(4)(A) The succeeding subparagraphs of this paragraph are enacted by the Congress as an exercise of the rulemaking power of the Senate and the House of Representatives, respectively, and as such they shall be deemed a part of the rules of each House, respectively, but applicable only with respect to the procedure to be followed in that House in the case of concurrent resolutions (as defined in subparagraph (B)). Such subparagraphs shall supersede other rules only to the extent that they are inconsistent therewith. They are enacted with full recognition of the constitutional right of either House to change the rules (so far as relating to the procedure of that House) at any time, in the same manner, and to the same extent as in the case of any rule of that House.

"(B) For purposes of this subsection, 'concurrent resolution' means only a concurrent resolution, the matter after the resolving clause of which is as follows: 'That the Congress favors the proposed schedule described in   transmitted to the Congress by the Pension Benefit Guaranty Corporation on   .', the first blank space therein being filled with 'section 4022A(f)(2)(A)(ii) of the Employee Retirement Income Security Act of 1974', 'section 4022A(f)(2)(A)(iii) of the Employee Retirement Income Security Act of 1974', 'section 4022A(f)(3)(A)(i) of the Employee Retirement Income Security Act of 1974', or 'section 4022A(f)(3)(A)(ii) of the Employee Retirement Income Security Act of 1974' (whichever as applicable), and the second blank space therein being filled with the date on which the corporation's message proposing the revision was submitted.

"(C) The procedure for disposition of a concurrent resolution shall be the procedure described in section 4006(b)(4) through (7).

* * * * *

"(g)(4)(A) No revised schedule of premiums under this subsection, after the initial schedule, shall go into effect unless—

"(i) the revised schedule is submitted to the Congress, and

"(ii) a concurrent resolution described in subparagraph (B) is not adopted before the close of the 60th legislative day after such schedule is submitted to the Congress.

"(B) For purposes of subparagraph (A), a concurrent resolution described in this subparagraph is a concurrent resolution the matter after the resolving clause of which is as follows: 'That the Congress disapproves the revised premium schedule transmitted to the Congress by the Pension Benefit Guaranty Corporation under section 4022A(g)(4) of the Employee Retirement Income Security Act of 1974 on .', the blank space therein being filled with the date on which the revised schedule was submitted.

"(C) For purposes of subparagraph (A), the term 'legislative day' means any calendar day other than a day on which either House is not in session because of a sine die adjournment or an adjournment of more than 3 days to a day certain.

"(D) The procedures for disposition of a concurrent resolution described in subparagraph (B) shall be the procedure described in paragraphs (4) through (7) of section 4006(b)."

7. Nuclear Non-Proliferation Act [Public Law 95-242, as amended by Public Law 99-64; 42 U.S.C 2153-2160]

SUBSEQUENT ARRANGEMENTS

SEC. 303. (a) Chapter 11 of the 1954 Act, as amended by sections 304, 305, 306, 307, and 308, is further amended by adding at the end thereof the following:

"SEC. 131. SUBSEQUENT ARRANGEMENTS.—

* * * * *

"f. (1) With regard to any subsequent arrangement under subsection a. (2)(E) (for the storage or disposition of irradiated fuel elements), where such arrangement involves a direct or indirect commitment of the United States for the storage or other disposition, interim or permanent, of any foreign spent nuclear fuel in the United States, the Secretary of Energy may not enter into any such subsequent arrangement, unless:

"(A)(i) Such commitment of the United States has been submitted to the Congress for a period of sixty days of continuous session (as defined in subsection 130 g. of this Act) and has been referred to the Committee on Foreign Affairs of the House of Representatives and the Committee on Foreign Relations of the Senate, but any such commitment shall not become effective if during such sixty-day period the Congress adopts a concurrent resolution stating in substance that it does not favor the commitment, any such commitment to be considered pursuant to the procedures set forth in section 130 of this Act for the consideration of Presidential submissions; or (ii) if the President has submitted a detailed generic plan for such disposition or storage in the United States to the Congress for a period of sixty days of continuous session (as defined in subsection 130 g. of this Act), which plan has been referred to the Committee on Foreign Affairs of the House of Representatives and the Committee on Foreign Relations of the Senate and has not been disapproved during such sixty-day period by the adoption of a concurrent resolution stating in substance that Congress does not favor the plan; and the commitment is subject to the terms of an effective plan. Any such plan shall be considered pursuant to the procedures set forth in section 130 of this Act for the consideration of Presidential submissions;

*   *   *   *   *

EXPORT LICENSING PROCEDURES

[42 U.S.C. 2155]

SEC. 304. (a) Chapter 11 of the 1954 Act is amended by adding a new section 126 as follow:

"SEC. 126. EXPORT LICENSING PROCEDURES.—

"a. No license may be issued by the Nuclear Regulatory Commission (the 'Commission') for the export of any production or utilization facility, or any source material or special nuclear material, including distributions of any material by the Department of Energy under sections 54, 64, or 82, for which a license is required or requested, and no exemption from any requirement for such an export license may be granted by the Commission, as the case may be, until—

*   *   *   *   *

Provided, That continued cooperation under an agreement for cooperation as authorized in accordance with section 124 of this Act shall not be prevented by failure to meet the provisions of paragraph (4) or (5) of section 127 for a period of thirty days after enactment of this section, and for a period of twenty-three months thereafter if the Secretary of State notifies the Commission that the nation or group of nations bound by the relevant agreement has agreed to negotiations as called for in section 404(a) of the Nuclear Non-Proliferation Act of 1978; however, nothing in this subsection shall be deemed to relinquish any rights which the United States may have under agreements for cooperation in force on the date of enactment of this section: *Provided further,* That if, upon the expiration of such twenty-month period, the President determines that failure to continue cooperation with any group of nations which has been exempted pursuant to the above proviso from the provisions of paragraph (4) or (5) of section 127 of this Act, but which has not yet agreed to comply with those provisions would be seriously prejudicial to the achievement of United States non-proliferation objectives or otherwise jeopardize the common defense and security, he may, after notifying the Congress of his determination, extend by Executive order the duration of the above proviso for a period of twelve months, and may further extend the duration of such proviso by one year increments annually thereafter if he again makes such determination and so notifies the Congress. In the event that the Committee on Foreign Affairs of the House of Representatives or the Committee on Foreign Relations of the Senate reports a joint resolution to take any action with respect to any such extension, such joint resolution will be considered in the House or Senate, as the case may be, under procedures identical to those provided for the consideration of resolutions pursuant to section 130 of this Act:

* * * * *

If, after receiving the proposed license application and reviewing the Commission's decision, the President determines that withholding the proposed export would be seriously prejudicial to the achievement of United States non-proliferation objectives, or would otherwise jeopardize the common defense and security, the proposed export may be authorized by Executive order: *Provided,* That prior to any such export, the President shall submit the Executive order, together with his explanation of why, in light of the Commission's decision, the export should nonetheless be made, to the Congress for a period of sixty days of continuous session (as defined in subsection 130 g.) and shall be referred to the Committee on Foreign Affairs of the House of Representatives and the Committee on Foreign Relations of the Senate, but any such proposed export shall not occur if during such sixty-day period the Congress adopts a concurrent resolution stating in substance that it does not favor the proposed export. Any such Executive order shall be considered pursuant to the procedures set forth in section 130 of this Act for the consideration of Presidential submissions:

* * * * *

"c. In the event that the House of Representatives or the Senate passes a joint resolution which would adopt one or more additional export criteria, or would modify any existing criteria under this Act, any such joint resolution shall be referred in the other House to the Committee on Foreign Relations of the Senate or the Committee on Foreign Affairs of the House of Representatives, as the case may be, and shall be considered by the other House under applicable procedures provided for the consideration of resolutions pursuant to section 130 of this Act.".

ADDITIONAL EXPORT CRITERION AND PROCEDURES

[42 U.S.C. 2157]

SEC. 306. Chapter 11 of the 1954 Act, as amended by sections 304 and 305, is further amended by adding at the end thereof the following:

"SEC. 128. ADDITIONAL EXPORT CRITERION AND PROCEDURES.—

* * * * *

> *Provided,* That no such export of any production or utilization facility or of any source or special nuclear material (intended for use as fuel in any production or utilization facility) which has been licensed or authorized pursuant to this subsection shall be made to any non-nuclear-weapon state which has failed to meet such criterion until the first such license or authorization with respect to such state is submitted to the Congress (together with a detailed assessment of the

reasons underlying the President's determination, the judgment of the executive branch required under section 126 of this Act, and any Commission opinion and views) for a period of sixty days of continuous session (as defined in subsection 130 g. of this Act) and referred to the Committee of Foreign Affairs of the House of Representatives and the Committee on Foreign Relations of the Senate, but such export shall not occur if during such sixty-day period the Congress adopts a concurrent resolution stating in substance that the Congress does not favor the proposed export. Any such license or authorization shall be considered pursuant to the procedures set forth in section 130 of this Act for the consideration of Presidential submissions.

"(2) If the Congress adopts a resolution of disapproval pursuant to paragraph (1), no further export of materials, facilities, or technology specified in subsection a. shall be permitted for the remainder of that Congress, unless such state meets the criterion or the President notifies the Congress that he has determined that significant progress has been made in achieving adherence to such criterion by such state or that United States foreign policy interests dictate reconsideration and the Congress, pursuant to the procedure of paragraph (1), does not adopt a concurrent resolution stating in substance that it disagrees with the President's determination.

"(3) If the Congress does not adopt a resolution of disapproval with respect to a license or authorization submitted pursuant to paragraph (1), the criterion set forth in subsection a. shall not be applied as an export criterion with respect to exports of materials, facilities and technology specified in subsection a. to that state: *Provided,* That the first license or authorization with respect to that state which is issued pursuant to this paragraph after twelve months from the elapse of the sixty-day period specified in paragraph (1), and the first such license or authorization which is issued after each twelve-month period thereafter, shall be submitted to the Congress for review pursuant to the procedures specified in paragraph (1): *Provided further,* That if the Congress adopts a resolution of disapproval during any review period provided for by this paragraph, the provisions of paragraph (2) shall apply with respect to further exports to such state.".

CONDUCT RESULTING IN TERMINATION OF NUCLEAR EXPORTS

[42 U.S.C. 2158]

SEC. 307. Chapter 11 of the 1954 Act, as amended by sections 304, 305, and 306, is further amended by adding at the end thereof:

"SEC. 129. CONDUCT RESULTING IN TERMINATION OF NUCLEAR EXPORTS.—

"No nuclear materials and equipment or sensitive nuclear technology shall be exported to—

"(1) any non-nuclear-weapon state that is found by the President to have, at any time after the effective date of this section,

* * * * *

unless the President determines that cessation of such exports would be seriously prejudicial to the achievement of United States non-proliferation objectives or otherwise jeopardize the common defense and security: *Provided,* That prior to the effective date of any such determination, the President's determination, together with a report contaning the reasons for his determination, shall be submitted to the Congress and referred to the Committee on Foreign Affairs of the House of Representatives and the Committee on Foreign Relations of the Senate for a period of sixty days of continuous session (as defined in subsection 130 g. of this Act), but any such determination shall not become effective if during such sixty-day period the Congress adopts a concurrent resolution stating in substance that it does not favor the determination. Any such determination shall be considered pursuant to the procedures set forth in section 130 of this Act for the consideration of Presidential submissions.".

* * * * *

COOPERATION WITH OTHER NATIONS

[42 U.S.C. 2153]

SEC. 401. Section 123 of the 1954 Act is amended to read as follows:

"SEC. 123. COOPERATION WITH OTHER NATIONS.—

"No cooperation with any nation, group of nations or regional defense organization pursuant to section 53, 54 a., 57, 64, 82, 91, 103, 104, or 144 shall be undertaken until—

"a. the proposed agreement for cooperation has been submitted to the President, which proposed agreement shall include the terms, conditions, duration, nature, and scope of the cooperation; and shall include the following requirements:

* * * * *

"c. the proposed agreement for cooperation (if not an agreement subject to subsection d.), together with the approval and determination of the President, has been submitted to the Committee on Foreign Affairs of the House of Representatives and the Committee on Foreign Relations of the Senate for a period of thirty days of continuous session (as defined in subsection 130 g.): *Provided, however,* That these committees, after having received such agreement for cooperation, may by resolution in writing waive the conditions of all or any portion of such thirty-day period; and

"d. the proposed agreement for cooperation (if arranged pursuant to subsection 91 c., 144 b., or 144 c., or if entailing implementation of section 53, 54 a., 103, or 104 in relation to a reactor that may be capable of producing more than five thermal megawatts or special nuclear material for use in connection therewith) has been submitted to the Congress, together with the approval and determination of the President, for a period of sixty days of continuous session (as defined in subsection 130 g. of this Act) and referred to the Committee on Foreign Affairs of the House of Representatives and the Committee on Foreign Relations of the Senate, and in addition, in the case of a proposed agreement for cooperation arranged pursuant to subsection 91 c., 144 b., or 144 c., the Committee on Armed Services of the House of Representatives and the Committee on Armed Services of the Senate, but such proposed agreement for cooperation shall not become effective if during such sixty-day period the Congress adopts and there is enacted, a joint resolution stating in substance that the Congress does not favor the proposed agreement for cooperation: *Provided,* That the sixty-day period shall not begin until a Nuclear Proliferation Assessment Statement prepared by the Director of the Arms Control and Disarmament Agency, when required by subsection 123 a., has been submitted to the Congress. Any such proposed agreement for cooperation shall be considered pursuant to the procedures set forth in section 130(i) of this Act.

"Following submission of a proposed agreement for cooperation (except an agreement for cooperation arranged pursuant to subsection 91 c., 144 b., or 114 c.) to the Committee on Foreign Affairs of the House of Representatives and the Committee on Foreign Relations of the Senate, the Nuclear Regulatory Commission, the Department of State, the Department of Energy, the Arms Control and Disarmament Agency, and the Department of Defense shall, upon the request of either of those committees, promptly furnish to those committees their views as to whether the safeguards and other controls contained therein provide an adequate framework to ensure that any exports as contemplated by such agreement will not be inimical to or constitute an unreasonable risk to the common defense and security.

"If, after the date of enactment of the Nuclear Non-Proliferation Act of 1978, the Congress fails to disapprove a proposed agreement for cooperation which exempts the recipient nation from the requirement set forth in subsection 123 a. (2), such failure to act shall constitute a failure to adopt a resolution of disapproval pursuant to subsection 128 b. (3) for purposes of the Commission's consideration of applications and requests under section 126 a. (2) and there shall be no congressional review pursuant to section 128 of any subsequent license or authorization with respect to that until the first such license or authorization which is issued after twelve months from the elapse of the sixty-day period in which the agreement for cooperation in question is reviewed by the Congress.".

* * * * *

CONGRESSIONAL REVIEW PROCEDURES

[42 U.S.C. 2159]

Sec. 308. Chapter 11 of the 1954 Act, as amended by sections 304, 305, 306, and 307, is further amended by adding at the end thereof the following:

"Sec. 130. Congressional Review Procedures.—

"a. Not later than forty-five days of continuous session of Congress after the date of transmittal to the Congress of any submission of the President required by subsection 126a. (2), 126b. (2), 127b., 129, 131a. (3), or 131f. (1)(A) of this Act, the Committee on Foreign Relations of the Senate and the Committee on Foreign Affairs of the House of Representatives, shall each submit a report to its respective House on its views and recommendations respecting such Presidential submission together with a resolution, as defined in subsection f., stating in substance that the Congress approves or disapproves such submission, as the case may be: *Provided,* That if any such committee has not reported such a resolution at the end of such forty-five day period, such committee shall be deemed to be discharged from further consideration of such submission. If no such resolution has been reported at the end of such period, the first resolution, as defined in subsection f., which is introduced within five days thereafter within such House shall be placed on the appropriate calendar of such House.

* * * * *

"g. (1) Except as provided in paragraph (2), for the purposes of this section—

"(A) continuity of session is broken only by an adjournment of Congress sine die; and

"(B) the days on which either House is not in session because of an adjournment of more than three days to a day certain are excluded in the computation of any period of time in which Congress is in continuous session.

"(2) For purposes of this section insofar as it applies to section 123—

"(A) continuity of session is broken only by an adjournment of Congress sine die at the end of a Congress; and

"(B) the days on which either House is not in session because of an adjournment of more than three days are excluded in the computation of any period of time in which Congress is in continuous session."; and

"h. This section is enacted by Congress—

"(1) as an exercise of the rulemaking power of the Senate and the House of Representatives, respectively, and as such they are deemed a part of the rules of each House, respectively, but applicable only with respect to the procedure to be followed in that House in the case of resolutions described by subsection f. of this section; and they supersede other rules only to the extent that they are inconsistent therewith; and

"(2) with full recognition of the constitutional right of either House to change the rules (so far as relating to the procedure of that House) at any time, in the same manner and to the same extent as in the case of any other rule of that House.".

"i. (1) For the purposes of this subsection, the term 'joint resolution' means a joint resolution, the matter after the resolving clause of which is as follows: "That the Congress (does or does not) favor the proposed agreement for cooperation transmitted to the Congress by the President on.', with the date of the transmission of the proposed agreement for cooperation inserted in the blank, and the affirmative or negative phrase within the parenthetical appropriately selected.

"(2) On the day on which a proposed agreement for cooperation is submitted to the House of Representatives and the Senate under section 123 d., a joint resolution with respect to such agreement for cooperation shall be introduced (by request) in the House by the chariman of the Committee on Foreign Affairs, for himself and the ranking minority member of the Committee, or by Members of the House designated by the chairman and ranking minority member; and shall be introduced (by request) in the Senate by the majority leader of the Senate, for himself and the minority leader of the Senate, or by Members of the Senate designated by the majority leader and minority leader of the Senate. If either House is not in session on the day on which such an agreement for cooperation is submitted, the joint resolution shall be introduced in that House, as provided in the preceding sentence, on the first day thereafter on which that House is in session.

"(3) All joint resolutions introduced in the House of Representatives shall be referred to the appropriate committee or committees, and all joint resolutions introduced in the Senate shall be referred to the Committee on Foreign Relations and in addition, in the case of a proposed agreement for cooperation arranged pursuant to section 91 c., 144 b., or 144 c., the Committee on Armed Services.

"(4) If the committee of either House to which a joint resolution has been referred has not reported it at the end of 45 days after its introduction, the committee shall be discharged from further consideration of the joint resolution or of any other joint resolution introduced with respect to the same matter; except that, in the case of a joint resolution which has been referred to more than one committee, if before the end of that 45-day period one such committee has reported the joint resolution, any other committee to which the joint resolution was referred shall be discharged from further consideration of the joint resolution or of any other joint resolution introduced with respect to the same matter.

"(5) A joint resolution under this subsection shall be considered in the Senate in accordance with the provisions of section 601(b)(4) of the International Security Assistance and Arms Export Control Act of 1976. For the purpose of expediting the consideration and passage of joint resolutions reported or discharged pursuant to the provisions of this subsection, it shall be in order for the Committee on Rules of the House of Representatives to present for consideration a resolution of the House of Representatives providing procedures for the immediate consideration of a joint resolution under this subsection which may be similiar, if applicable, to the procedures set forth in section 601(b)(4) of the International Security Assistance and Arms Exports Control Act of 1976.

"(6) In the case of a joint resolution described in paragraph (1), if prior to the passage by one House of a joint resolution of that House, that House receives a joint resolution with respect to the same matter from the other House, then—

"(A) the procedure in that House shall be the same as if no joint resolution had been received from the other House; but

"(B) the vote on final passage shall be on the joint resolution of the other House.".

8. Presidential Recordings and Materials Preservation Act [Public Law 93–526, Section 104(a), (b); 88 Stat. 1695; 44 U.S.C. 2107 note]

SEC. 104. (a) The Administrator shall, within ninety days after the date of enactment of this title, submit to each House of the Congress a report proposing and explaining regulations that would provide public access to the tape recordings and other materials referred to in section 101. Such regulations shall take into account the following factors:

* * * * *

(b)(1) The regulations proposed by the Administrator in the report required by subsection (a) shall take effect upon the expiration of ninety legislative days after the submission of such report, unless such regulations are disapproved by a resolution adopted by either House of the Congress during such period.

(2) The Administrator may not issue any regulation or make any change in a regulation if such regulation or change is disapproved by either House of the Congress under this subsection.

(3) The provisions of this subsection shall apply to any change in the regulations proposed by the Administrator in the report required by subsection (a). Any proposed change shall take into account the factors described in paragraph (1) through paragraph (7) of subsection (a), and such proposed change shall be submitted by the Administrator in the same manner as the report required by subsection (a).

(4) Paragraph (5) is enacted by the Congress—

(A) as an exercise of the rulemaking power of the Senate and the House of Representatives, respectively, and as such it shall be considered as part of the rules of each House, respectively, and such rules shall supersede other rules only to the extent that they are inconsistent therewith; and

(B) with full recognition of the constitutional right of either House to change such rules (as far as relating to the procedures of that House) at any time, in the same manner, and to the same extent as in the case of any other rule of that House.

(5)(A) Any resolution introduced under paragraph (1) shall be referred to a committee by the Speaker of the House or by the President of the Senate, as the case may be.

(B) If the committee to which any such resolution is referred has not reported any resolution relating to any regulation or change proposed by the Administrator under this section before the expiration of sixty calendar days after the submission of any such proposed regulation or change, it shall then be in order to move to discharge the committee for further consideration of such resolution.

(C) Such motion may be made only by a person favoring the resolution, and such motion shall be privileged. An amendment to such motion is not in order, and it is not in order to move to reconsider the vote by which such motion is agreed to or disagreed to.

(D) If the motion to discharge is agreed to or disagreed to, such motion may not be renewed.

(E) When the committee has reported, or has been discharged from further consideration of, a resolution introduced under paragraph (1), it shall at any time thereafter be in order (even though a previous motion to the same effect has been disagreed to) to move to proceed to the consideration of such resolution. Such motion shall be privileged. An amendment to such motion is not in order, and it is not in order to move to reconsider the vote by which such motion is agreed to or disagreed to.

(6) For purposes of this subsection, the term "legislative days" does not include any calendar day on which both Houses of the Congress are not in session.

See *Allen v. Carmen*, 578 F.Supp. 951, D.DC.

9. Trade Act of 1974 [Public Law 93-618; 88 Stat. 1980; as amended by Public Law 96-39, Section 902(a) and Public Law 98-573, Section 248]

[NOTE: Several sections of the Trade Act of 1974 provide for Congressional disapproval of certain executive actions. The Act itself provides the procedure to be employed in the House in each instance. These provisions are included as the final paragraph of this section.]

A. PUBLIC LAW 93-618; SECTION 203 (B) AND (C) AS AMENDED BY PUBLIC LAW 98-573, SECTION 248(A)(1) [19 U.S.C. 2253]—IMPORT RELIEF

(b)(1) On the day the President determines under section 202 to provide import relief, including announcement of his intention to negotiate an orderly marketing agreement, the President shall transmit to Congress a document setting forth the action he is taking under this section. If the action taken by the President differs from the action recommended to him by the Commission under section 201(d)(1)(A), he shall state the reason for such difference.

(2) On the day on which the President determines that the provision of import relief is not in the national economic interest of the United States, the President shall transmit to Congress a document setting forth such determination and the reasons why, in terms of the national

economic interest, he is not providing import relief and also what other steps he is taking, beyond adjustment assistance programs immediately available to help the industry to overcome serious injury and the workers to find productive employment.

(3) On the day on which the President proclaims any import relief under this section not reported pursuant to paragraph (1), he shall transmit to Congress a document setting forth the action he is taking and the reasons therefor.

(c)(1) If the President reports under subsection (b) that he is taking action which differs from the action recommended by the Commission under section 201(d)(1)(A), or that he will not provide import relief, the action recommended by the Commission shall take effect (as provided in paragraph (2)) upon enactment of a joint resolution described in section 152(a)(1)(A) within the 90-day period beginning on the date on which the document referred to in subsection (b) is transmitted to the Congress.

(2) If the contingency set forth in paragraph (1) occurs, the President shall (within 30 days after the enactment of the joint resolution referred to in paragraph (1)) proclaim the increase in, or imposition of, any duty or other import restriction on the article which was recommended by the Commission under section 201(d).

B. PUBLIC LAW 93-618; SECTION 402 (C) AND (D) [19 U.S.C. 2432]—FREEDOM OF EMIGRATION

(c)(1) During the 18-month period beginning on the date of the enactment of this Act, the President is authorized to waive by Executive order the application of subsection (a) and (b) with respect to any country, if he reports to the Congress that—

(A) he has determined that such waiver will substantially promote the objectives of this section; and

(B) he has received assurances that the emigration practices of that country will henceforth lead substantially to the achievement of the objectives of this section.

(2) During any period subsequent to the 18-month period referred to in paragraph (1), the President is authorized to waive by Executive order the application of subsections (a) and (b) with respect to any country, if the waiver authority granted by this subsection continues to apply to such

country pursuant to subsection (d), and if he reports to the Congress that—

(A) he has determined that such waiver will substantially promote the objectives of this section; and

(B) he has received assurances that the emigration practices of that country will henceforth lead substantially to the achievement of the objectives of this section.

(3) A waiver with respect to any country shall terminate on the day after the waiver authority granted by this subsection ceases to be effective with respect to such country pursuant to subsection (d). The President may, at any time, terminate by Executive order any waiver granted under this subsection.

(d)(1) If the President determines that the extension of the waiver authority granted by subsection (c)(1) will substantially promote the objectives of this section, he may recommend to the Congress that such authority be extended for a period of 12 months. Any such recommendation shall—

(A) be made not later than 30 days before the expiration of such authority;

(B) be made in a document transmitted to the House of Representatives and the Senate setting forth his reasons for recommending the extension of such authority; and

(C) include, for each country with respect to which a waiver granted under subsection (c)(1) is in effect, a determination that continuation of the waiver applicable to that country will substantially promote the objectives of this section, and a statement setting forth his reasons for such determination.

(2) If the President recommends under paragraph (1) the extension of the waiver authority granted by subsection (c)(1), such authority shall continue in effect with respect to any country for a period of 12 months following the end of the 18-month period referred to in subsection (c)(1), if, before the end of such 18-month period, the House of Representatives and the Senate adopt, by an affirmative vote of a majority of the Members present and voting in each House and under the procedures set forth in section 153, a concurrent resolution approving the extension of such authority, and such resolution does not name such country as being excluded from such authority. Such authority shall cease to be effective with respect to any country named in such concurrent resolution on the date of the

adoption of such concurrent resolution. If before the end of such 18-month period, a concurrent resolution approving the extension of such authority is not adopted by the House and the Senate, but both the House and Senate vote on the question of final passage of such a concurrent resolution and—

(A) both the House and the Senate fail to pass such a concurrent resolution, the authority granted by subsection (c)(1) shall cease to be effective with respect to all countries at the end of such 18-month period;

(B) both the House and the Senate pass such a concurrent resolution which names such country as being excluded from such authority, such authority shall cease to be effective with respect to such country at the end of such 18-month period; or

(C) one House fails to pass such a concurrent resolution and the other House passes such a concurrent resolution which names such country as being excluded from such authority, such authority shall cease to be effective with respect to such country at the end of such 18-month period.

(3) If the President recommends under paragraph (1) the extension of the waiver authority granted by subsection (c)(1), and at the end of the 18-month period referred to in subsection (c)(1) the House of Representatives and the Senate have not adopted a concurrent resolution approving the extension of such authority and subparagraph (A) of paragraph (2) does not apply, such authority shall continue in effect for a period of 60 days following the end of such 18-month period with respect to any country (except for any country with respect to which authority was not extended by reason of the application of subparagraph (B) or (C) of paragraph (2)), and shall continue in effect for a period of 12 months following the end of such 18-month period with respect to any such country if, before the end of such 60-day period, the House of Representatives and the Senate adopt, by an affirmative vote of a majority of the Members present and voting in each House and under the procedures set forth in section 153, a concurrent resolution approving the extension of such authority, and such resolution does not name such country as being excluded from such authority. Such authority shall cease to be effective with respect to any country named in such concurrent resolution on the date of adoption of such concurrent resolution. If before the end of such 60-day period, a concurrent resolution approving the extension of such author-

ity is not adopted by the House and Senate, but both the House and Senate vote on the question of final passage of such a concurrent resolution and—

(A) both the House and the Senate fail to pass such a concurrent resolution, the authority granted by subsection (c)(1) shall cease to be effective with respect to all countries on the date of the vote on the question of final passage by the House which votes last;

(B) both the House and the Senate pass such a concurrent resolution which names such country as being excluded from such authority, such authority shall cease to be effective with respect to such country at the end of such 60-day period; or

(C) one House fails to pass such a concurrent resolution and the other House passes such a concurrent resolution which names such country as being excluded from such authority, such authority shall cease to be effective with respect to such country at the end of such 60-day period.

(4) If the President recommends under paragraph (1) the extension of the waiver authority granted by subsection (c)(1), and at end of the 60-day period referred to in paragraph (3) the House of Representatives and the Senate have not adopted a concurrent resolution approving the extension of such authority and subparagraph (A) of paragraph (3) does not apply, such authority shall continue in effect until the end of the 12-month period following the end of the 18-month period referred to in subsection (c)(1) with respect to any country (except for any country with respect to which such authority was not extended by reason of the application of subparagraph (B) or (C) of paragraph (2) or subparagraph (B) or (C) of paragraph (3)), unless before the end of the 45-day period following such 60-day period either the House of Representatives or the Senate adopts, by an affirmative vote of a majority of the Members present and voting in that House and under the procedures set forth in section 153, a resolution disapproving the extension of such authority generally or with respect to such country specifically. Such authority shall cease to be effective with respect to all countries on the date of the adoption by either House before the end of such 45-day period of a resolution disapproving the extension of such authority, and shall cease to be effective with respect to any country on the date of the adoption by either House before the end of such 45-day period of a res-

olution disapproving the extension of such authority with respect to such country.

(5) If the waiver authority granted by subsection (c) has been extended under paragraph (3) or (4) for any country for the 12-month period referred to in such paragraphs, and the President determines that the further extension of such authority will substantially promote the objectives of this section, he may recommend further extensions of such authority for successive 12-month periods. Any such recommendations shall—

(A) be made not later than 30 days before the expiration of such authority;

(B) be made in a document transmitted to the House of Representatives and the Senate setting forth his reasons for recommending the extension of such authority; and

(C) include, for each country with respect to which a waiver granted under subsection (c) is in effect, a determination that continuation of the waiver applicable to that country will substantially promote the objectives of this section, and a statement setting forth his reasons for such determination.

If the President recommends the further extension of such authority, such authority shall continue in effect until the end of the 12-month period following the end of the previous 12-month extension with respect to any country (except for any country with respect to which such authority has not been extended under this subsection), unless before the end of the 60-day period following such previous 12-month extension, either the House of Representatives or the Senate adopts, by an affirmative vote of a majority of the Members present and voting in that House and under the procedures set forth in section 153, a resolution disapproving the extension of such authority generally or with respect to such country specifically. Such authority shall cease to be effective with respect to all countries on the date of the adoption by either House before the end of such 60-day period of a resolution disapproving the extension of such authority, and shall cease to be effective with respect to any country on the date of the adoption by either House before the end of such 60-day period of a resolution disapproving the extension of such authority with respect to such country.

(e) This section shall not apply to any country the products of which are eligible for the rates set forth in rate column numbered 1 of the Tariff Schedules of the United States on the date of the enactment of this Act.

C. PUBLIC LAW 93-618; SECTION 407 [19 U.S.C. 2437]—NONDISCRIMINATORY TREATMENT OF FOREIGN PRODUCTS AND COMMERCIAL AGREEMENTS

(a) Whenever the President issues a proclamation under section 404 extending nondiscriminatory treatment to the products of any foreign country, he shall promptly transmit to the House of Representatives and to the Senate a document setting forth the proclamation and the agreement the proclamation proposes to implement, together with his reasons therefor.

(b) The President shall transmit to the House of Representatives and the Senate a document containing the initial report submitted by him under section 402(b) or 409(b) with respect to a nonmarket economy country. On or before December 31 of each year, the President shall transmit to the House of Representatives and the Senate, a document containing the report required by section 402(b) or 409(b) as the case may be, to be submitted on or before such December 31.

(c)(1) In the case of a document referred to in subsection (a) (other than a document to which paragraph (2) applies), the proclamation set forth therein may become effective and the agreement set forth therein may enter into force and effect only if the House of Representatives and the Senate adopt, by an affirmative vote of a majority of those present and voting in each House, a concurrent resolution of approval (under the procedures set forth in section 151) of the extension of nondiscriminatory treatment to the products of the country concerned.

(2) In the case of a document referred to in subsection (a) which sets forth an agreement entered into before the date of the enactment of this Act and a proclamation implementing such agreement, such proclamation may become effective and such agreement may enter into force and effect after the close of the 90-day period beginning on the day on which such document is delivered to the House of Representatives and to the Senate, unless during such 90-day period either the House of Representatives or the Senate adopts, by an affirmative vote of a majority of those present and voting in that House, a resolution of disapproval (under the procedures set forth in section 152) of

the extension of nondiscriminatory treatment to the products of the country concerned.

(3) In the case of a document referred to in subsection (b) which contains a report submitted by the President under section 402(b) or 409(b) with respect to a nonmarket economy country, if, before the close of the 90-day period beginning on the day on which such document is delivered to the House of Representatives and to the Senate, either the House of Representatives or the Senate adopts, by an affirmative vote of a majority of those present and voting in that House, a resolution of disapproval (under the procedures set forth in section 152) of the report submitted by the President with respect to such country, then, beginning with the day after the date of the adoption of such resolution of disapproval, (A) nondiscriminatory treatment shall not be in force with respect to the products of such country, and the products of such country shall be dutiable at the rates set forth in rate column numbered 2 of the Tariff Schedules of the United States, (B) such country may not participate in any program of the Government of the United States which extends credit or credit guarantees or investment guarantees, and (C) no commercial agreement may thereafter be concluded with such country under this title.

D. PUBLIC LAW 93–618, SECTIONS 151–154, AS AMENDED BY PUBLIC LAW 98–573, SECTION 248, AND BY PUBLIC LAW 100–418, SECTION 1107(B)(1) [19 U.S.C. 2191]—(NOTE: THE PROCEDURES PROVIDED HEREIN ARE APPLICABLE IN ONE RESPECT OR ANOTHER TO THE PRECEDING SUBPARAGRAPHS)

SECTION 151. BILLS IMPLEMENTING TRADE AGREEMENTS ON NONTARIFF BARRIERS AND RESOLUTIONS APPROVING COMMERICAL AGREEMENTS WITH COMMUNIST COUNTRIES

(a) RULES OF HOUSE OF REPRESENTATIVES AND SENATE.—This section and sections 152 and 153 are enacted by the Congress—

(1) as an exercise of the rulemaking power of the House of Representatives and the Senate, respectively, and as such they are deemed a part of the rules of each House, respectively, but applicable only with respect to the procedure to be followed in that House in the case of implementing bills described in subsection (b)(1), implementing revenue bills described in subsection (b)(2), approval resolutions described in subsection

(b)(3), and resolutions described in subsections 152(a) and 153(a); and they supersede other rules only to the extent that they are inconsistent therewith; and

(2) with full recognition of the constitutional right of either House to change the rules (so far as relating to the procedure of that House) at any time, in the same manner and to the same extent as in the case of any other rule of that House.

(b) DEFINITIONS.—For purposes of this section—

(1) The term "implementing bill" means only a bill of either House of Congress which is introduced as provided in subsection (c) with respect to one or more trade agreements submitted to the House of Representatives and the Senate under section 102 of this Act or section 1103(a)(1) of the Omnibus Trade and Competitiveness Act of 1988 and which contains—

(A) a provision approving such trade agreement or agreements,

(B) a provision approving the statement of administrative action (if any) proposed to implement such trade agreement or agreements, and

(C) if changes in existing laws or new statutory authority is required to implement such trade agreements, provisions, necessary or appropriate to implement such trade agreement or agreements, either repealing or amending existing laws or providing new statutory authority.

(2) The term "implementing revenue bill" means an implementing bill which contains one or more revenue measures by reason of which it must originate in the House of Representatives.

(3) The term "approval resolution" means only a concurrent resolution of the two Houses of the Congress, the matter after the resolving clause of which is as follows: "That the Congress approves the extension of nondiscriminatory treatment with respect to the products of ——— transmitted by the President to the Congress on ———.", the first blank space being filled with the name of the country involved and the second blank space being filled with the appropriate date.

(c) INTRODUCTION AND REFERRAL.—

(1) On the day on which a trade agreement is submitted to the House of Representatives and the Senate under section 102, the implementing bill submitted by the President with respect to such trade agreement shall be introduced (by request) in the House by the majority leader of the

House, for himself and the minority leader of the House, or by Members of the House designated by the majority leader and minority leader of the House; and shall be introduced (by request) in the Senate by the majority leader of the Senate, for himself and the minority leader of the Senate, or by Members of the Senate designated by the majority leader and minority leader of the Senate. If either House is not in session on the day on which such a trade agreement is submitted, the implementing bill shall be introduced in that House, as provided in the preceding sentence on the first day thereafter on which that House is in session. Such bills shall be referred by the Presiding Officers of the respective Houses to the appropriate committee, or, in the case of a bill containing provisions within the jurisdiction of two or more committees, jointly to such committees for consideration of those provisions within their respective jurisdictions.

(2) On the day on which a bilateral commercial agreement, entered into under title IV of this Act after the date of the enactment of this Act, is transmitted to the House of Representatives and the Senate, an approval resolution with respect to such agreement shall be introduced (by request) in the House by the majority leader of the House, for himself and the minority leader of the House, or by Members of the House designated by the majority leader and minority leader of the House; and shall be introduced (by request) in the Senate by the majority leader of the Senate, for himself and the minority leader of the Senate, or by Members of the Senate designated by the majority leader and minority leader of the Senate. If either House is not in session on the day on which such an agreement is transmitted, the approval resolution with respect to such agreement shall be introduced in that House, as provided in the preceding sentence, on the first day thereafter on which that House is in session. The approval resolution introduced in the House shall be referred to the Committee on Ways and Means and the approval resolution introduced in the Senate shall be referred to the Committee on Finance.

(d) Amendments Prohibited.—No amendment to an implementing bill or approval resolution shall be in order in either the House of Representatives or the Senate; and no motion to suspend the application of this subsection shall be in order in either House, nor shall it be in order in either House for the Presiding Officer to entertain a request to suspend the application of this subsection by unanimous consent.

(e) PERIOD FOR COMMITTEE AND FLOOR CONSIDERATION.—

(1) Except as provided in paragraph (2), if the committee or committees of either House to which an implementing bill or approval resolution has been referred have not reported it at the close of the 45th day after its introduction, such committee or committees shall be automatically discharged from further consideration of the bill or resolution and it shall be placed on the appropriate calendar. A vote on final passage of the bill or resolution shall be taken in each House on or before the close of the 15th day after the bill or resolution is reported by the committee or committees of that House to which it was referred, or after such committee or committees have been discharged from further consideration of the bill or resolution. If prior to the passage by one House of an implementing bill or approval resolution of that House, that House receives the same implementing bill or approval resolution from the other House, then—

(A) the procedure in that House shall be the same as if no implementing bill or approval resolution had been received from the other House; but

(B) the vote on final passage shall be on the implementing bill or approval resolution of the other House.

(2) The provisions of paragraph (1) shall not apply in the Senate to an implementing revenue bill. An implementing revenue bill received from the House shall be referred to the appropriate committee or committees of the Senate. If such committee or committees have not reported such bill at the close of the 15th day after its receipt by the Senate (or, if later, before the close of the 45th day after the corresponding implementing revenue bill was introduced in the Senate), such committee or committees shall be automatically discharged from further consideration of such bill and it shall be placed on the calendar. A vote on final passage of such bill shall be taken in the Senate on or before the close of the 15th day after such bill is reported by the committee or committees of the Senate to which it was referred, or after such committee or committees have been discharged from further consideration of such bill.

(3) For purposes of paragraphs (1) and (2), in computing a number of days in either House, there shall be excluded any day on which that House is not in session.

(f) FLOOR CONSIDERATION IN THE HOUSE.—

(1) A motion in the House of Representatives to proceed to the consideration of an implementing bill or approval resolution shall be highly privileged and not debatable. An amendment to the motion shall not be in order, nor shall it be in order to move to reconsider the vote by which the motion is agreed to or disagreed to.

(2) Debate in the House of Representatives on an implementing bill or approval resolution shall be limited to not more than 20 hours, which shall be divided equally between those favoring and those opposing the bill or resolution. A motion further to limit debate shall not be debatable. It shall not be in order to move to recommit an implementing bill or approval resolution or to move to reconsider the vote by which an implementing bill or approval resolution is agreed to or disagreed to.

(3) Motions to postpone, made in the House of Representatives with respect to the consideration of an implementing bill or approval resolution, and motions to proceed to the consideration of other business, shall be decided without debate.

(4) All appeals from the decisions of the Chair relating to the application of the Rules of the House of Representatives to the procedure relating to an implementing bill or approval resolution shall be decided without debate.

(5) Except to the extent specifically provided in the preceding provisions of this subsection, consideration of an implementing bill or approval resolution shall be governed by the Rules of the House of Representatives applicable to other bills and resolutions in similar circumstances.

Pursuant to section 151(f)(2) of the Trade Act of 1974, debate on an implementing revenue bill must be equally divided and controlled among those favoring and opposing the bill (absent unanimous-consent agreement for some other distribution of the time); a motion to limit debate on such legislation must be made in the House, and not in the Committee of the Whole, and may be made either pending the motion to resolve into Committee of the Whole or at a later time, after the Committee has risen without completing action on the bill (July 10, 1979, pp. 17812-3). For the procedure for consideration of a privileged bill, reported from committee, to implement a trade agreement under the Trade Act, see Nov. 14, 1980, p. 29617.

SECTION 152. [19 U.S.C. 2192 AS AMENDED BY PUBLIC LAW 98-573, SEC. 248] RESOLUTIONS DISAPPROVING CERTAIN ACTIONS

(a) CONTENTS OF RESOLUTIONS.—

(1) For purposes of this section, the term "resolution" means only—

(A) a joint resolution of the two Houses of the Congress, the matter after the resolving clause of which is as follows: "That the Congress does not approve the action taken by, or the determination of, the President under section 203 of the Trade Act of 1974 transmitted to the Congress on .", the blank space being filled with the appropriate date; and

(B) a resolution of either House of the Congress, the matter after the resolving clause of which is as follows: "That the ——— does not approve ——— transmitted to the Congress on ———.", with the first blank space being filled with the name of the resolving House, the second blank space being filled in accordance with paragraph (2), and the third blank space being filled with the appropriate date.

(2) The second blank space referred to in paragraph (1)(B) shall be filled as follows:

(A) in the case of a resolution referred to in section 303(e) of the Tariff Act of 1930, with the phrase "the determination of the Secretary of the Treasury under section 303(d) of the Tariff Act of 1930";

(B) in the case of a resolution referred to in section 407(c)(2), with the phrase "the extension of nondiscriminatory treatment with respect to the products of ———" (with this blank space being filled with the name of the country involved); and

(C) in the case of a resolution referred to in section 407(c)(3), with the phrase "the report of the President submitted under section ——— of the Trade Act of 1974 with respect to ———" (with the first blank space being filled with "402(b)" or "409(b)", as appropriate, and the second blank space being filled with the name of the country involved).

(b) REFERENCE TO COMMITTEES.—All resolutions introduced in the House of Representatives shall be referred to the Committee on Ways and Means and all resolutions introduced in the Senate shall be referred to the Committee on Finance.

(c) DISCHARGE OF COMMITTEES.—

(1) If the committee of either House to which a resolution has been referred has not reported it at the end of 30 days after its introduction, not counting any day which is excluded under section 153(b), it is in order to move either to discharge the committee from further consideration of the resolution or to discharge the committee from further consideration of any other resolution introduced with respect to the same matter, except no motion to discharge shall be in order after the committee has reported a resolution with respect to the same matter.

(2) A motion to discharge under paragraph (1) may be made only by an individual favoring the resolution, and is highly privileged in the House and privileged in the Senate; and debate thereon shall be limited to not more than 1 hour, the time to be divided in the House equally between those favoring and those opposing the resolution, and to be divided in the Senate equally between, and controlled by, the majority leader and the minority leader or their designees. An amendment to the motion is not in order, and it is not in order to move to reconsider the vote by which the motion is agreed to or disagreed to.

(d) FLOOR CONSIDERATION IN THE HOUSE.—

(1) A motion in the House of Representatives to proceed to the consideration of a resolution shall be highly privileged and not debatable. An amendment to the motion shall not be in order, nor shall it be in order to move to reconsider the vote by which the motion is agreed to or disagreed to.

(2) Debate in the House of Representatives on a resolution shall be limited to not more than 20 hours, which shall be divided equally between those favoring and those opposing the resolution. A motion further to limit debate shall not be debatable. No amendment to, or motion to recommit, the resolution shall be in order. It shall not be in order to move to reconsider

the vote by which a resolution is agreed to or disagreed to.

(3) Motions to postpone, made in the House of Representatives with respect to the consideration of a resolution, and motions to proceed to the consideration of other business, shall be decided without debate.

(4) All appeals from the decisions of the Chair relating to the application of the Rules of the House of Representatives to the procedure relating to a resolution shall be decided without debate.

(5) Except to the extent specifically provided in the preceding provisions of this subsection, consideration of a resolution in the House of Representatives shall be governed by the Rules of the House of Representatives applicable to other resolutions in similar circumstances.

(e) FLOOR CONSIDERATION IN SENATE.—

* * * * *

(f) SPECIAL RULE FOR CONCURRENT JOINT RESOLUTIONS.—In the case of a resolution described in subsection (a)(1), if prior to the passage by one House of a resolution of that House, that House receives a resolution with respect to the same matter from the other House, then—

(1) the procedure in that House shall be the same as if no resolution had been received from the other House; but

(2) the vote on final passage shall be on the resolution of the other House.

Although a motion that the House resolve itself into the Committee of the Whole is not ordinarily subject to the motion to postpone indefinitely (VI, 726), the motion to postpone indefinitely may be offered pursuant to the provisions of this statute, is non-debatable and represents final adverse disposition of the disapproval resolution. (Mar. 10, 1977, p. 7021.)

SECTION 153. [19 U.S.C. 2193] RESOLUTIONS RELATING TO EXTENSION OF WAIVER AUTHORITY UNDER SECTION 402

(a) CONTENTS OF RESOLUTIONS.—For purposes of this section, the term "resolution" means only—

(1) a concurrent resolution of the two Houses of the Congress, the matter after the resolving clause of which is as follows: "That the Congress approves the extension of the authority contained in section 402(c)(1) of the Trade Act of 1974 recommended by the President to the Congress on ———, except with re-

spect to ———.", with the first blank space being filled with the appropriate date and the second blank space being filled with the names of those countries, if any, with respect to which such extension of authority is not approved, and with the except clause being omitted if there is no such country; and

(2) a resolution of either House of the Congress, the matter after the resolving clause of which is as follows: "That the ——— does not approve the extension of the authority contained in section 402(c) of the Trade Act of 1974 recommended by the President to the Congress on ——— with respect to ———.", with the first blank space being filled with the name of the resolving House, the second blank space being filled with the appropriate date, and the third blank space being filled with the names of those countries, if any, with respect to which such extension of authority is not approved, and with the with-respect-to clause being omitted if the extension of the authority is not approved with respect to any country.

(b) Application of Rules of Section 152; Exceptions.—

(1) Except as provided in this section, the provisions of section 152 shall apply to resolutions described in subsection (a).

(2) In applying section 152(c)(1), all calendar days shall be counted, and, in the case of a resolution related to section 402(d)(4), 20 calendar days shall be substituted for 30 days.

(3) That part of section 152(d)(2) which provides that no amendment is in order shall not apply to any amendment to a resolution which is limited to striking out or inserting the names of one or more countries or to striking out or inserting an except clause, in the case of a resolution described in subsection (a)(1), or a with-respect-to clause, in the case of a resolution described in subsection (a)(2). Debate in the House of Representatives on any amendment to a resolution shall be limited to not more than 1 hour which shall be equally divided between those favoring and those opposing the amendment. A motion in the House to further limit debate on an amendment to a resolution is not debatable.

(4) That part of section 152(e)(4) which provides that no amendment is in order shall not apply to any amendment to a resolution which is limited to striking out or inserting the names of one or more countries or to striking out or inserting an except clause, in the case of a resolution de-

scribed in subsection (a)(1), or a with-respect-to clause, in the case of a resolution described in subsection (e)(2). The time limit on a debate on a resolution in the Senate under section 152(e)(2) shall include all amendments to a resolution. Debate in the Senate on any amendments to a resolution shall be limited to not more than 1 hour, to be equally divided between, and controlled by, the mover and the manager of the resolution, except that in the event the manager of the resolution is in favor of any such amendment, the time in opposition thereto shall be controlled by the minority leader or his designee. The majority leader and minority leader may, from time under their control on the passage of a resolution, allot additional time to any Senator during the consideration of any amendment. A motion in the Senate to further limit debate on an amendment to a resolution is not debatable.

(c) Consideration of Second Resolution Not in Order.—It shall not be in order in either the House of Representatives or the Senate to consider a resolution with respect to a recommendation of the President under section 402(d) (other than a resolution described in subsection (a)(1) received from the other House), if that House has adopted a resolution with respect to the same recommendation.

SECTION 154. [19 U.S.C. 2194] SPECIAL RULES RELATING TO CONGRESSIONAL PROCEDURES

(a) Whenever, pursuant to section 102(e), 203(b), 402(d), or 407 (a) or (b), or section 303(e) of the Tariff Act of 1930, a document is required to be transmitted to the Congress, copies of such document shall be delivered to both Houses of Congress on the same day and shall be delivered to the Clerk of the House of Representatives if the House is not in session and to the Secretary of the Senate if the Senate is not in session.

(b) For purposes of sections 203(c), 407(c)(2), and 407(c)(3), the 90-day period referred to in such sections shall be computed by excluding—

(1) the days on which either House is not in session because of an adjournment of more than 3 days to a day certain or an adjournment of the Congress sine die, and

(2) any Saturday and Sunday, not excluded under paragraph (1), when either House is not in session.

9a. Child support standards in Title IV of the Social Security Act [Public Law 94-88, Section 208(d); 89 Stat. 433; 42 U.S.C. 602 note]

* * * * *

(d)(1) The Secretary of Health and Human Services shall submit to the Congress any proposed standards authorized to be prescribed by him under section 402(a)(26)(B) of the Social Security Act (as added by the Social Services Amendments of 1974 and as amended by subsection (a) of this section). Such standards shall take effect at the end of the period which ends 60 days after such proposed standards are so submitted to such committees unless, within such period either House of the Congress, adopts a resolution of disapproval.

(2) For purposes of this subsection, the term "resolution" means only—

(A) a concurrent resolution of the two Houses of the Congress, the matter after the resolving clause of which is as follows: "That the Congress does not approve the standards (as authorized under section 402(a)(26)(B) of the Social Security Act) transmitted to the Congress on .", the blank space being filled with the appropriate date; and

(B) a resolution of either House of the Congress, the matter after the resolving clause of which is as follows: "That the does not approve the standards (as authorized under section 402(a)(26)(B) of the Social Security Act) transmitted to the Congress on .", with the first blank space being filled with the name of the resolving House, and the second blank space being filled with the appropriate date.

(3) The provisions of subsections (b), (c), (d), (e), and (f) of section 152 of the Trade Act of 1974 shall be applicable to resolutions under this subsection, except that the "20 hours" referred to in subsections (d)(2) and (e)(2) of such section shall be deemed to read "4 hours".

10. Arms Control and Disarmament [22 U.S.C. 2587; 75 Stat. 638]

SECTION 2587. TRANSFER OF ACTIVITIES AND FACILITIES TO AGENCY; REPORT TO CONGRESS; APPROVAL

(b) The President, by Executive order, may transfer to the Director any activities or facilities of any Government agency which relate primarily to arms control and disarmament. In connection with any such transfer, the President may under this section or other applicable authority, provide for appropriate transfers of records, property, civilian personnel, and funds. No transfer shall be made under this subsection until (1) a full and complete report concerning the nature and effect of such proposed transfer has been transmitted by the President to the Congress, and (2) the first period of sixty calendar days of regular session of the Congress following the date of receipt of such report by the Congress has expired without adoption by either House of the Congress of a resolution stating that such House does not favor such transfer. The procedures prescribed in sections 133z-10 to 133z-15 of Title 5 shall apply to any such resolution.

REFERENCES IN TEXT

Sections 133z-10 to 133z-15 of Title 5, referred to in the text, were repealed in the general revision of Title 5, and the provisions are now covered by sections 908 to 912 of Title 5, Executive Reorganization, contained in part 1 of this chapter on Congressional Disapproval provisions, supra. Those provisions have been amended by Public Law 98-614 to require passage of a joint resolution of approval. Thus, this section should be read in light of *INS v. Chadha,* 103 S.Ct. 2764 (1983).

11. Annual Pay Reports and Adjustments [5 U.S.C. 5305 (a) and (c)-(m)]

SECTION 5305. ANNUAL PAY REPORTS AND ADJUSTMENTS

(a) In order to carry out the policy stated in section 5301 of this title, the President shall—

(1) direct such agent as he considers appropriate to prepare and submit to him annually, after considering such views and recommendations as may be submit-

ted under the provisions of subsection (b) of this section, a report that—

(A) compares the rates of pay of the statutory pay systems with the rates of pay for the same levels of work in private enterprise as determined on the basis of appropriate annual surveys that shall be conducted by the Bureau of Labor Statistics;

(B) makes recommendation for appropriate adjustments in rates of pay; and

(C) includes the views and recommendations submitted under the provisions of subsection (b) of this section;

(2) after considering the report of his agent and the findings and recommendations of the Advisory Committee on Federal Pay reported to him under section 5306(b)(3) of this title, adjust the rates of pay of each statutory pay system in accordance with the principles under section 5301(a) of this title, effective as of the beginning of the first applicable pay period commencing on or after October 1 of the applicable year; and

(3) transmit to Congress a report of the pay adjustment, together with a copy of the report submitted to him by this agent and the findings and recommendations of the Advisory Committee on Federal Pay reported to him under section 5306(b)(3) of this title. The report transmitted to the Congress under this subsection shall specify the overall percentage of the adjustment in the rates of pay under the General Schedule and of the adjustment in the rates of pay under the other statutory pay systems.

* * * * *

(c)(1) If, because of national emergency or economic conditions affecting the general welfare, the President should, in any year, consider it inappropriate to make the pay adjustment required by subsection (a) of this section, he shall prepare and transmit to Congress before September 1 of that year such alternative plan with respect to a pay adjustment as he considers appropriate, together with the reasons therefor, in lieu of the pay adjustments required by subsection (a) of this section. The report transmitted to the Congress under this subsection shall specify the overall percentage of the adjustment in the rates of pay under the General Schedule and of the adjustment in the rates of pay under the other statutory pay systems.

(2) An alternative plan transmitted by the President under paragraph (1) of this subsection becomes effective on the first day of the first applicable pay period commencing on or after October 1 of the applicable year and continues in effect unless, before the end of the first period of 30 calendar days of continuous session of Congress after the date on which the alternative plan is transmitted, either House adopts a resolution disapproving the alternative plan so recommended and submitted, in which case the pay adjustments for the statutory pay systems shall be made effective as provided by subsection (m) of this section. The continuity of a session is broken only by an adjournment of the Congress sine die, and the days on which either House is not in session because of an adjournment of more than 3 days to a day certain are excluded in the computation of the 30-day period.

(d) Subsections (e)–(k) of this section are enacted by Congress—

(1) as an exercise of the rulemaking power of the Senate and the House of Representatives, respectively, and as such they are deemed a part of the rules of each House, respectively, but applicable only with respect to the procedure to be followed in the House in the case of resolutions described by this section; and they supersede other rules only to the extent that they are inconsistent therewith; and

(2) with full recognition of the constitutional right of either House to change the rules (so far as relating to the procedure of that House) at any time, in the same manner, and to the same extent as in the case of any other rule of that House.

(e) If the committee, to which has been referred a resolution disapproving the alternative plan of the President, has not reported the resolution at the end of the 10 calendar days after its introduction, it is in order to move either to discharge the committee from further consideration of the resolution or to discharge the committee from further consideration of any other resolution with respect to the same plan which as been referred to the committee.

(f) A motion to discharge may be made only by an individual favoring the resolution, is highly privileged (except that it may not be made after the committee has reported a resolution with respect to the same recommendation), and debate thereon is limited to not more than 1 hour, to be divided equally between those favoring and those opposing the resolution. An amendment to the motion is not in order, and it is not in order to move to reconsider the vote by which the motion is agreed to or disagreed to.

(g) If the motion to discharge is agreed to, or disagreed to, the motion may not be renewed, nor may another motion to discharge the committee be made with respect to any other resolution with respect to the same alternative plan.

(h) When the committee has reported, or has been discharged from further consideration of, a resolution with respect to an alternative plan, it is at any time thereafter in order (even though a previous motion to the same effect has been disagreed to) to move to proceed to the consideration of the resolution. The motion is highly privileged and is not debatable. An amendment to the motion is not in order, and it is not in order to move to reconsider the vote by which the motion is agreed to or disagreed to.

(i) Debate on the resolution is limited to not more than 2 hours, to be divided equally between those favoring and those opposing the resolution. A motion further to limit debate is not debatable. An amendment to, or motion to recommit, the resolution is not in order, and it is not in order to move to reconsider the vote by which the resolution is agreed to or disagreed to.

(j) Motions to postpone, made with respect to the discharge from committee, or the consideration of, a resolution with respect to an alternative plan, and motions to proceed to the consideration of other business, are decided without debate.

(k) Appeals from the decisions of the Chair relating to the application of the rules of the Senate or the House of Representatives, as the case may be, to the procedure relating to a resolution with respect to an alternative plan are decided without debate.

(l) The rates of pay which become effective under this section are the rates of pay applicable to each position concerned, and each class of positions concerned, under a statutory pay system.

(m) If either House adopts a resolution disapproving an alternative plan submitted under subsection (c) of this section, the President shall take action required by paragraphs (2) and (3) of subsection (a) of this section and adjust the rates of pay of the statutory pay systems effective as of the beginning of the first applicable pay period commencing on or after the date on which the resolution is adopted or on or after October 1, whichever is later.

For procedure under this statute, see Oct. 4, 1971, pp. 34714-37. The motion that the Committee of the Whole rise is privileged during consideration of a resolution disapproving a President's alternative pay plan. Oct. 4, 1971, p. 34722. This statute should be read in light of *INS* v. *Chadha*, 103 S.Ct. 2764 (1983).

Under section 311(d) of the Legislative Branch Appropriations Act, 1988, as contained in section 101(i) of Public Law 100-202, the Speaker may adjust pay levels for officers and employees of the House to maintain certain relationships with comparable levels in the Senate and in the executive branch. This authority to issue "pay orders" is stated as follows:

"Notwithstanding any other provision of this Act, or any other provision of law, rule, or regulation, hereafter each time the President pro tempore of the Senate exercises any authority pursuant to any of the amendments made by this section with respect to rates of pay or any other matter relating to personnel whose pay is disbursed by the Secretary of the Senate, the Speaker of the House of Representatives may, with respect to personnel whose pay is disbursed by the Clerk of the House of Representatives, exercise the same authority to the extent necessary to ensure parity of treatment between personnel of the respective Houses of Congress having comparable duties and responsibilities." (2 U.S.C. § 60a-2a).

12. Energy Policy and Conservation Act [Public Law 94-163; 89 Stat. 871; as amended by Public Law 96-102, Section 103; 42 U.S.C. 6421]

PART C—CONGRESSIONAL REVIEWS

PROCEDURE FOR CONGRESSIONAL REVIEW OF PRESIDENTIAL REQUESTS TO IMPLEMENT CERTAIN AUTHORITIES

SEC. 551. (a) For purposes of this section, the term "energy action" means any matter required to be transmitted, or submitted to the Congress in accordance with the procedures of this section.

(b) The President shall transmit any energy action (bearing an identification number) to both Houses of Congress on the same day. If both Houses are not in session on the day any energy action is received by the appropriate officers of each House, for purposes of this section such energy action shall be deemed to have transmitted on the first succeeding day on which both Houses are in session.

(c)(1) Except as provided in paragraph (2) of this subsection, if energy action is transmitted to the Houses of Congress, such action shall take effect at the end of the first period of 15 calendar days of continuous session of Congress after the date on which such action is transmitted to such Houses, unless between the date of transmittal and the end of such 15-day period, either House passes a resolution stating in substance that such House does not favor such action.

(2) An energy action described in paragraph (1) may take effect prior to the expiration of the 15-calendar-day period after the date on which such action is transmitted, if each House of Congress approves a resolution affirmatively stating in substance that such House does not object to such action.

(d) For the purpose of subsection (c) of this section—

(1) continuity of session is broken only by an adjournment of Congress sine die; and

(2) the days on which either House is not in session because of an adjournment of more than 3 days to a day certain are excluded in the computation of the 15-calendar-day period.

(e) Under provisions contained in an energy action, a provision of such an action may take effect on a date later than the date on which such action otherwise takes effect pursuant to the provisions of this section.

(f)(1) This subsection is enacted by Congress—

(A) as an exercise of the rulemaking power of the Senate and the House of Representatives, respectively, and as such it is deemed a part of the rules of each House, respectively, but applicable only with respect to the procedure to be followed in that House in the case of resolutions described by paragraph (2) of this subsection; and it supersedes other rules only to the extent that is is inconsistent therewith; and

(B) with full recognition of the constitutional right of either House to change the rules (so far as relating to the procedure of that House) at any time, in the same manner and to the same extent as in the case of any other rule of the House.

(2) For purposes of this subsection, the term "resolution" means only a resolution of either House of Congress described in subparagraph (A) or (B) of this paragraph.

(A) A resolution the matter after the resolving clause of which is as follows: "That the ________ does not object to the energy action numbered ________ submitted to the Congress on ________, 19 .", the first blank space therein being filled with the name of the resolving House and the other blank spaces being appropriately filled; but does not include a resolution which specifies more than one energy action.

(B) A resolution the matter after the resolving clause of which is as follows: "That the ________ does not favor the energy action numbered ________ transmitted to Congress on ________, 19 .", the first blank space therein being filled with the name of the resolving House and other blank spaces therein being appropriately filled; but does not include a resolution which specifies more than one energy action.

(3) A resolution once introduced with respect to an energy action shall immediately be referred to a committee (and all resolutions with respect to the same plan shall be referred to the same committee) by the President of the Senate or the Speaker of the House of Representatives, as the case may be.

(4)(A) If the committee to which a resolution with respect to an energy action has been referred has not reported it at the end of 5 calendar days after its referral, it shall be in order to move either to discharge the committee from further consideration of such resolution or to discharge the committee from further consideration of any other resolution with respect to such energy action which has been referred to the committee.

(B) A motion to discharge may be made only by an individual favoring the resolution, shall be highly privileged (except that it may not be made after the committee has reported a resolution with respect to the same energy action), and debate thereon shall be limited to not more than one hour, to be divided equally between those favoring and those opposing the resolution. An amendment to the motion shall not be in order, and it shall not be in order to move to reconsider the vote by which the motion was agreed to or disagreed to.

(C) If the motion to discharge is agreed to or disagreed to, the motion may not be renewed, nor may another motion to discharge the committee be made with respect to any other resolution with respect to the same energy action.

(5)(A) When the committee has reported, or has been discharged from further consideration of, a resolution, it shall be at any time thereafter in order (even though a previous motion to the same effect has been disagreed to) to move to proceed to the consideration of the resolution. The motion shall be highly privileged and shall not be debatable. An amendment to the motion shall not be in order, and it shall not be in order to move to reconsider the vote by which the motion was agreed to or disagreed to.

(B) Debate on the resolution referred to in subparagraph (A) of this paragraph shall be limited to not more than 10 hours, which shall be divided equally between those favoring and those opposing such resolution. A motion further to limit debate shall not be debatable. An amendment to, or motion to recommit, the resolution shall not be in order, and it shall not be in order to move to reconsider the vote by which such resolution was agreed to or disagreed to; except that it shall be in order—

(i) to offer an amendment in the nature of a substitute, consisting of the text of a resolution described in paragraph (2)(A) of this subsection with respect to an energy action, for a resolution described in paragraph (2)(B) of this subsection with respect to the same such action, or

(ii) to offer an amendment in the nature of a substitute, consisting of the text of a resolution described in paragraph (2)(B) of this subsection with respect to an energy action, for a resolution described in paragraph (2)(A) of this subsection with respect to the same such action.

The amendments described in clauses (i) and (ii) of this subparagraph shall not be amendable.

(6)(A) Motions to postpone, made with respect to the discharge from committee, or the consideration of a resolution and motions to proceed to the consideration of other business, shall be decided without debate.

(B) Appeals from the decision of the Chair relating to the application of the rules of the Senate or the House of Representatives, as the case may be, to the procedure relating to a resolution shall be decided without debate.

(7) Notwithstanding any of the provisions of this subsection, if a House has approved a resolution with respect to an energy action, then it shall not be in order to consider in that House any other resolution with respect to the same such action.

Procedure for consideration of a motion to discharge a committee from consideration of a resolution disapproving an "energy action" under Public Law 94-163, see Apr. 13, 1976, p. 10794; May 27, 1976, p. 15772.

OTHER PROVISIONS IN PUBLIC LAW 94-163, AS AMENDED BY PUBLIC LAW 97-229; [42 U.S.C. 6239] ALTERING THE PERIOD OF CONGRESSIONAL REVIEW IN SECTION 551

SEC. 159. (a) The Strategic Petroleum Reserve Plan shall not become effective and may not be implemented, unless—

(1) the Administrator has transmitted such Plan to the Congress pursuant to section 154(b); and

(2) neither House of Congress has disapproved (or both house have approved) such Plan, in accordance with the procedures specified in section 551.

(b) For purposes of congressional review of the Strategic Petroleum Reserve Plan under subsection (a), the 5 calendar days described in section 551(f)(4)(A) shall be lengthened to 15 calendar days, and the 15 calendar days described in section 551 (c) and (d) shall be lengthened to 45 calendar days.

FROM SEC. 301 [15 U.S.C 2002 (A)]—AUTOMOTIVE FUEL ECONOMY

(4) The Secretary may, by rule, amend the average fuel economy standard specified in paragraph (1) for model year 1985, or for any subsequent model year, to a level which he determines is the maximum feasible average fuel economy level for such model year, except that any amendment which has the effect of increasing an average fuel economy standard to a level in excess of 27.5 miles per gallon, or of decreasing any such standard to a level below 26.0 miles per gallon, shall be submitted to the Congress in accordance with section 551 of the Energy Policy and Conservation Act, and shall not take effect if either House of the Congress disapproves such amendment in accordance with the procedures specified in such section.

(5) For purposes of considering any modification which is submitted to the Congress under paragraph (4), the 5 calendar days specified in section 551(f)(4)(A) of the Energy Policy and Conservation Act shall be lengthened to 20 calendar days, and the 15 calendar days specified in section 551 (c) and (d) of such Act shall be lengthened to 60 calendar days.

EXPEDITED PROCEDURE FOR CONGRESSIONAL CONSIDERATION OF CERTAIN AUTHORITIES

[42 U.S.C. 6422]

SEC. 552. (a) Any contingency plan transmitted to the Congress pursuant to section 201(a)(1) shall bear an identification number and shall be transmitted to both Houses of Congress on the same day and to each House while it is in session.

(b) Necessity of Congressional resolution within certain period for plan to be considered approved

(1) No such energy conservation contingency plan may be considered approved for purposes of section 6261(b) of this title unless between the date of transmittal and the end of the first period of 60 calendar days of continuous session of Congress after the date on which such action is transmitted to such House, each House of Congress passes a resolution described in subsection (d)(2)(A) of this section.

(2)(A) Subject to subparagraph (B), any such rationing contingency plan shall be considered approved for purposes of section 6261(d) of this title only if such plan is not disapproved by a resolution described in subsection (d)(2)(B)(i) of this section which passes each House of the Congress during the 30-calendar-day period of continuous session after the plan is transmitted to such Houses and which thereafter becomes law.

(B) A rationing contingency plan may be considered approved prior to the expiration of the 30-calendar-day period after such plan is transmitted if a resolution described in subsection (d)(2)(B)(ii) of this section is passed by each House of the Congress and thereafter becomes law.

(c) Computation of period

For the purpose of subsection (b) of this section—

(1) continuity of session is broken only by an adjournment of Congress sine die; and

(2) the days on which either House is not in session because of an adjournment of more than 3 days to a day certain are excluded in the computation of the calendar-day period involved.

(d) Resolution with respect to contingency plan

(1) This subsection is enacted by Congress—

(A) as an exercise of the rulemaking power of the Senate and the House of Representatives, respectively, and as such it is deemed a part of the rules of each

House, respectively, but applicable only with respect to the procedure to be followed in that House in the case of resolutions described by paragraph (2) of this subsection; and it supersedes other rules only to the extent that it is inconsistent therewith; and

(B) with full recognition of the constitutional right of either House to change the rules (so far as relating to the procedure of that House) at any time, in the same manner and to the same extent as in the case of any other rule of the House.

(2)(A) For purposes of applying this section with respect to any energy conservation contingency plan, the term "resolution" means only a resolution of either House of Congress the matter after the resolving clauses of which is as follows: "That the ——— approves the energy conservation contingency plan numbered ——— submitted to the Congress on ————, 19——.", the first blank space therein being filled with the name of the resolving House and the other blank spaces being appropriately filled; but does not include a resolution which specifies more than one energy conservation contingency plan.

(B) For purposes of applying this subsection with respect to any rationing contingency plan (other than pursuant to section 6261(d)(2)(B) of this title), the term "resolution" means only a joint resolution described in clause (i) or (ii) of this subparagraph with respect to such plan.

(i) A joint resolution of either House of the Congress (I) which is entitled: "Joint resolution relating to a rationing contingency plan.", (II) which does not contain a preamble, and (III) the matter after the resolving clause of which is: "That the Congress of the United States disapproves the rationing contingency plan transmitted to the Congress on ————, 19——.", the blank spaces therein appropriately filled.

(ii) A joint resolution of either House of the Congress (I) which is entitled: "Joint resolution relating to a rationing contingency plan.", (II) which does not contain a preamble, and (III) the matter after the resolving clause of which is: "That the Congress of the United States does not object to the rationing contingency plan transmitted to the Congress on ————, 19——.", the blank spaces therein appropriately filled.

(3) A resolution once introduced with respect to a contingency plan shall immediately be referred to a committee (and all resolutions with respect to the same contingency plan shall be referred to the same committee) by

the President of the Senate or the Speaker of the House of Representatives, as the case may be.

(4)(A) If the committee to which a resolution with respect to a contingency plan has been referred has not reported it at the end of 20 calendar days after its referral in the case of any energy conservation contingency plan or at the end of 10 calendar days after its referral in the case of any rationing contingency plan, it shall be in order to move either to discharge the committee from further consideration of such resolution or to discharge the committee from further consideration of any other resolution with respect to such contingency plan which has been referred to the committee.

(B) A motion to discharge may be made only by an individual favoring the resolution, shall be highly privileged (except that it may not be made after the committee has reported a resolution with respect to the same contingency plan), and debate thereon shall be limited to not more than 1 hour, to be divided equally between those favoring and those opposing the resolution. Except to the extent provided in paragraph (7)(A), an amendment to the motion shall not be in order, and it shall not be in order to move to reconsider the vote by which the motion was agreed to or disagreed to.

(C) If the motion to discharge is agreed to or disagreed to, the motion may not be renewed, nor may another motion to discharge the committee be made with respect to any other resolution with respect to the same contingency plan.

(5)(A) When the committee has reported, or has been discharged from further consideration of, a resolution, it shall be at any time thereafter in order (even though a previous motion to the same effect has been disagreed to) to move to proceed to the consideration of the resolution. The motion shall be highly privileged and shall not be debatable. An amendment to the motion shall not be in order, and it shall not be in order to move to reconsider the vote by which the motion was agreed to or disagreed to.

(B) Debate on the resolution referred to in subparagraph (A) of this pargraph shall be limited to not more than 10 hours, which shall be divided equally between those favoring and those opposing such resolution. A motion further to limit debate shall not be debatable. Except to the extent provided in paragraph (7)(B), an amendment to, or motion to recommit the resolution shall not be in order, and it shall not be in order to move to reconsider the vote by which such resolution was agreed to or disagreed to.

(6)(A) Motions to postpone, made with respect to the discharge from committee, or the consideration of a resolution and motions to proceed to the consideration of other business, shall be decided without debate.

(B) Appeals from the decision of the Chair relating to the application of the rules of the Senate or the House of Representatives, as the case may be, to the procedures relating to a resolution shall be decided without debate.

(7) With respect to any rationing contingency plan—

(A) In the consideration of any motion to discharge any committee from further consideration of any resolution on any such plan, it shall be in order after debate allowed for under paragraph (4)(B) to offer an amendment in the nature of a substitute for such motion—

(i) consisting of a motion to discharge such committee from further consideration of a resolution described in paragraph (2)(B)(i) with respect to any rationing contingency plan, if the discharge motion sought to be amended relates to a resolution described in paragraph (2)(B)(ii) with respect to the same such plan, or

(ii) consisting of a motion to discharge such committee from further consideration of a resolution described in paragraph (2)(B)(ii) with respect to any rationing contingency plan, if the discharge motion sought to be amended relates to a resolution described in paragraph (2)(B)(i) with respect to the same such plan.

An amendment described in this subparagraph shall not be amendable. Debate on such an amendment shall be limited to not more than 1 hour, which shall be divided equally between those favoring and those opposing the amendment.

(B) In the consideration of any resolution on any such plan which has been reported by a committee, it shall be in order at any time during the debate allowed for under paragraph (5)(B) to offer an amendment in the nature of a substitute for such resolution—

(i) consisting of the text of a resolution described in paragraph (2)(B)(i) with respect to any rationing contingency plan, if the resolution sought to be amended is a resolution described in paragraph (2)(B)(ii) with respect to the same such plan, or

(ii) consisting of the text of a resolution described in paragraph (2)(B)(ii) with respect to any rationing contingency plan, if the resolution sought to be amended is a resolution described in paragraph (2)(B)(i) with respect to the same such plan.

An amendment described in this subparagraph shall not be amendable.

(C) If one House receives from the other House a resolution with respect to a rationing contingency plan, then the following procedure applies:

(i) the resolution of the other House with respect to such plan shall not be referred to a committee;

(ii) in the case of a resolution of the first House with respect to such plan—

(I) the procedure with respect to that or other resolutions of such House with respect to such plan shall be the same as if no resolution from the other House with respect to such plan had been received; but

(II) on any vote on final passage of a resolution of the first House with respect to such plan a resolution from the other House with respect to such plan which has the same effect shall be automatically substituted for the resolution of the first House.

(D) Notwithstanding any of the preceding provisions of this subsection, if a House has approved a resolution with respect to a rationing contingency plan, then it shall not be in order to consider in that House any other resolution under this section with respect to the approval of such plan.

Although the Energy Policy and Conservation Act provides for separate House consideration of resolutions to approve standby rationing plans proposed under the Act, and to approve amendments to said plans proposed after their submission to Congress, the House adopted in the 96th Congress a resolution reported from the Committee on Rules to provide for simultaneous consideration of a resolution to approve a plan and of a resolution to approve an amendment to the plan, with one vote on adoption of both resolutions, since provisions of that Act governing procedures for House consideration were enacted pursuant to the rulemaking power of the House, with recognition of the right of the House to change its rules at any time (May 10, 1979, pp. 10666-7).

In a message to Congress submitting three energy conservation contingency plans pursuant to Public Law 94-163, the President stated that the Act did not specify the form which resolutions of approval must take and recommended that a joint resolution, since it would have the force of law, be the appropriate vehicle, although section 552(c)(2) of the Act, supra, implies a simple resolution of approval in each House, since requiring the first blank space of the resolution to be filled with the name of the resolving House (Mar. 1, 1979, p. 3764. H. Doc. 96-62).

For consideraion of a privileged motion to discharge a committee from further consideration of a joint resolution disapproving a gas rationing plan proposed by the President under the procedures provided by this statute, see July 30, 1980, pp. 20515-29 (motion to discharge rejected by the House).

12a. Extensions of Emergency Energy Authorities [Public Law 95-620; 92 Stat. 3319; 42 U.S.C. 8374]

Sec. 404. Emergency authorities

(a) COAL ALLOCATION AUTHORITY.—(1) If the President—

(A) declares a severe energy supply interruption, as defined in section 3(8) of the Energy Policy and Conservation Act, or

(B) finds, and publishes such finding, that a national or regional fuel supply shortage exists or may exist which the President determines—

(i) is, or is likely to be, of significant scope and duration, and of an emergency nature;

(ii) causes, or may cause, major adverse impact on public health, safety, or welfare or on the economy; and

(iii) results, or is likely to result, from an interruption in the supply of coal or from sabotage, or an act of God;

the President may, by order, allocate (and require the transportation thereof) for the use of any electrical powerplant or major fuel-burning installation, in accordance with such terms and conditions as he may prescribe, to insure reliability of electric service or prevent unemployment, or protect public health, safety, or welfare.

(2) For purposes of this subsection, the term "coal" means anthracite and bituminous coal and lignite (but does not mean any fuel derivative thereof).

(b) Emergency Prohibition on Use of Natural Gas or Petroleum.—If the President declares a severe energy supply interruption, as defined in section 3(8) of the Energy Policy and Conservation Act, the President may, by order, prohibit any electric powerplant or major fuel-burning installation from using natural gas or petroleum, or both, as a primary energy source for the duration of such interruption. Notwithstanding any other provision of this section, any suspension of emission limitations or other requirements of applicable implementation plans, as defined in section 110(d) of the Clean Air Act, required by such prohibition shall be issued only in accordance with section 110(f) of the Clean Air Act.

(c) Emergency Stays.—The President may, by order, stay the application of any provision of this act, or any rule or order thereunder, applicable to any new or existing electric powerplant, if the President finds, and publishes such finding, that an emergency exists, due to national, regional, or systemwide shortages of coal or other alternate fuels, or disruption of transportation facilities, which emergency is likely to affect reliability of service of any such electric powerplant.

(d) Duration of Emergency Orders.—(1) Except as provided in paragraph (3), any order issued by the President under this section shall not be effective for longer than the duration of the interruption or emergency, or 90 days, whichever is less.

(2) Any such order may be extended by a subsequent order which the President shall transmit to the Congress in accordance with section 551 of the Energy Policy and Conservation Act. Such order shall be subject to congressional review pursuant to such section.

(3) Notwithstanding paragraph (1), the effectiveness of any order issued under this section shall not terminate under this subsection during the 15-calendar-day period during which any such subsequent order described in paragraph (2) is subject to congressional review under section 551 of the Energy Policy and Conservation Act.

12b. Nuclear Waste Fund Fees [Public Law 97-425, Section 302; 96 Stat. 2258; 42 U.S.C. 10222]

Sec. 302. (a) Contracts—(1) In the performance of his functions under this Act, the Secretary is authorized to enter into contracts with any person who generates or holds title to high-level radioactive waste, or spent nuclear fuel, of domestic origin for the acceptance of title, subsequent transportation, and disposal of such waste or spent fuel. Such contracts shall provide for payment to the Secretary of fees pursuant to paragraphs (2) and (3) sufficient to offset expenditures described in subsection (d).

* * * * *

(4) Not later than 180 days after the date of enactment of this Act, the Secretary shall establish procedures for the collection and payment of the fees established by paragraph (2) and paragraph (3). The Secretary shall annually review the amount of the fees established by paragraphs (2) and (3) above to evaluate whether collection of the fee will provide sufficient revenues to offset the costs as defined in subsection (d) herein. In the event the Secretary determines that either insufficient or excess revenues are being collected, in order to recover the costs incurred by the Federal Government that are specified in subsection (d), the Secretary shall propose an adjustment to the fee to insure full cost recovery. The Secretary shall immediately transmit this proposal for such an adjustment to Congress. The adjusted fee proposed by the Secretary shall be effective after a period of 90 days of continuous session have elapsed following the receipt of such transmittal unless during such 90-day period either House of Congress adopts a resolution disapproving the Secretary's proposed adjustment in accordance with the procedures set forth for congressional review of an energy action under section 551 of the Energy Policy and Conservation Act.

13. Section 36, Arms Export Control Act [22 U.S.C. 2776]

REPORTS ON COMMERCIAL AND GOVERNMENTAL MILITARY EXPORTS; CONGRESSIONAL ACTION

Sec. 36. Reports on Commercial and Governmental Military Exports; Congressional Action.—(a) The President shall transmit to the Speaker of the House of Representatives and to the chairman of the Committee on Foreign Relations of the Senate not more than sixty days after the end of each quarter an unclassified report (except that any material which was transmitted in classified form under subsection (b)(1) or (c)(1) of this section may be contained in a classified addendum to such report, and any letter of offer referred to in paragraph (1) of this subsection may be listed in such addendum unless such letter of offer has been the subject of an unclassified certification pursuant to subsection (b)(1) of this section) containing—

* * * * *

(b)(1) In the case of any letter of offer to sell any defense articles or services under this Act for $50,000,000 or more, any design and construction services for $200,000,000 or more, or any major defense equipment for $14,000,000 or more, before such letter of offer is issued, the President shall submit to the Speaker of the House of Representatives and the chairman of the Committee on Foreign Relations of the Senate a numbered certification with respect to such offer to sell containing the information specified in clauses (i) through

* * * * *

A certification transmitted pursuant to this subsection shall be unclassified, except that the information specified in clause (ii) and the details of the description specified in clause (iii) of subsection (a) may be classified if the public disclosure thereof would be clearly detrimental to the security of the United States. The letter of offer shall not be issued with respect to a proposed sale to the North Atlantic Treaty Organization, any member country of such Organization, Japan, Australia, or New Zealand, if the Congress, within fifteen calendar days after receiving such certification, or with respect to a proposed sale to any other country or organization, if the Congress within thirty calendar days after receiving such certification, enacts a joint resolution prohibiting the proposed sale, unless the President states in his certification that an emergency exists which requires such sale in the national security interests of the United States. If the President states in his certification that an emergency exists which requires the proposed sale in the national security interest of the United States, thus waiving the congressional review requirements of this subsection, he shall set forth in the certification a detailed justification for his determination, including a description of the emergency circumstances which necessitate the immediate issuance of the letter of offer and a discussion of the national security interests involved.

(2) Any such joint resolution shall be considered in the Senate in accordance with the provisions of section 601(b) of the International Security Assistance and Arms Export Control Act of 1976 except that for purposes of consideration of any resolution with respect to the North Atlantic Treaty Organization, any member country of such Organization, Japan, Australia, or New Zealand, it shall be in order in the Senate to move to discharge a committee to which such joint resolution was referred if such committee has not reported such resolution at the end of five calendar days after its introduction.

(3) For the purpose of expediting the consideration and enactment of joint resolutions under this subsection, a motion to proceed to the consideration of any such joint resolution after it has been reported by the appropriate committee shall be treated as highly privileged in the House of Representatives.

[NOTE: This supersedes Sec. 2(c)(4) of Public Law 94-104 relating to disapproval of military sales to Turkey.] Pursuant to this provision, a motion that the House resolve itself into the Committee of the Whole for consideration of a concurrent (now a joint) resolution disapproving an export sale of major defense equipment is highly privileged after the resolution has been reported (subject to the three-day availability requirement of clause 2(l)(6), Rule XI) (Oct. 14, 1981, pp. 23796, 23871, 23872; May 7, 1986, p. ——).

13a. Section 36(c), Arms Export Control Act [22 U.S.C. 2776(c)]

COMMERCIAL EXPORTS OF DEFENSE ARTICLES AND DEFENSE SERVICES

(c)(2) Unless the President states in his certification that an emergency exists which requires the proposed export in the national security interests of the United States, a license for export described in paragraph (1)—

(A) shall not be issued until at least 30 calendar days after the Congress receives such certification; and

(B) shall not be issued then if the Congress, within such 30-day period, enacts a joint resolution prohibiting the proposed export, except that this subparagraph does not apply with respect to a license issued for an export to the North Atlantic Treaty Organization, any member country of that Organization, Japan, Australia, or New Zealand.

If the President states in his certification that an emergency exists which requires the proposed export in the national security interests of the United States, thus waiving the requirements of subparagraphs (A) and (B) of this paragraph, he shall set forth in the certification a detailed justification for his determination, including a description of the emergency circumstances which necessitate the immediate issuance of the export license and a discussion of the national security interests involved.

(3)(A) Any joint resolution under this subsection shall be considered in the Senate in accordance with the provisions of section 601(b) of the International Security Assistance and Arms Export Control Act of 1976.

(B) For the purpose of expediting the consideration and enactment of joint resolutions under this subsection, a motion to proceed to the consideration of any such resolution after it has been reported by the appropriate committee shall be treated as highly privileged in the House of Representatives.

13a-1. Section 3(d), Arms Export Control Act [22 U.S.C. 2753(d)]

THIRD COUNTRY TRANSFER OF MILITARY EQUIPMENT

SEC. 3. ELIGIBILITY.—(a) No defense article or defense service shall be sold or leased by the United States Government under this Act to any country or international organization, and no agreement shall be entered into for a cooperative project (as defined in section 27 of this Act), unless—

* * * * *

(2) the country or international organization shall have agreed not to transfer title to, or possession of, any defense article or related training or other defense service so furnished to it, or produced in a cooperative project (as defined in section 27 of this Act), to anyone not an officer, employee, or agent of that country or international organization (or the North Atlantic Treaty Organization or the specific member countries other than the United States) in the case of

a cooperative project) and not to use or permit the use of such article or related training or other defense service for purposes other than those for which furnished unless the consent of the president has first been obtained;

* * * * *

(d)(1) The President may not give his consent under paragraph (2) of subsection (a) or under the third sentence of such subsection, or under section 505(a)(1) or 505(a)(4) of the Foreign Assistance Act of 1961, to a transfer of any major defense equipment valued (in terms of its original acquisition cost) at $14,000,000 or more, or any defense article or related training or other defense service valued (in terms of its original acquisition cost) at $50,000,000 or more, unless the President submits to the Speaker of the House of Representatives and the Committee on Foreign Relations of the Senate a written certification with respect to such proposed transfer containing—

(A) the name of the country or international organization proposing to make such transfer,

(B) a description of the article or service proposed to be transferred, including its acquisition cost,

(C) the name of the proposed recipient of such article or service,

(D) the reasons for such proposed transfer, and

(E) the date on which such transfer is proposed to be made.

Any certification submitted to Congress pursuant to this paragraph shall be unclassified, except that information regarding the dollar value and number of articles or services proposed to be transferred may be classified if public disclosure thereof would be clearly detrimental to the security of the United States.

(2)(A) Except as provided in subparagraph (B), unless the President states in the certification submitted pursuant to paragraph (1) of this subsection that an emergency exists which requires that consent to the proposed transfer become effective immediately in the national security interests of the United States, such consent shall not become effective until 30 calendar days after the date of such submission and such consent shall become effective then only if the Congress does not enact, within such 30-day period, a joint resolution, as provided for in sections 36(b)(2) and 36(b)(3) of this Act prohibiting the proposed transfer.

* * * * *

(3) The President may not give his consent to the transfer of any major defense equipment valued (in terms of its original acquisition cost) at $14,000,000 or more, or any defense article or defense service valued (in terms of its original acquisition cost) at $50,000,000 or more, the export of which has been licensed or approved under section 38 of this Act, unless at least 30 calendar days before giving such consent the President submits to the Speaker of the House of Representatives and the Chairman of the Committee on Foreign Relations of the Senate a report containing the information specified in subparagraphs (A) through (E) of paragraph (1). Such consent shall become effective then only if the Congress does not enact, within a 30-day period a joint resolution, as provided for in sections 36(c)(2) and 36(c)(3) of this Act prohibiting the proposed transfer.

(4) This section shall not apply—

(A) to transfers of maintenance, repair, or overhaul defense services, or of the repair parts of other defense articles used in furnishing such services, if the transfer will not result in any increase, relative to the original specifications, in the military capability of the defense articles and services to be maintained, repaired, or overhauled;

(B) to temporary transfers of defense articles for the sole purpose of receiving maintenance, repair, or overhaul; or

(C) to arrangements among members of the North Atlantic Treaty Organization or between the North Atlantic Treaty Organization and any of its member countries—

(i) for cooperative cross servicing, or

(ii) for lead-nation procurement if the certification transmitted to the Congress pursuant to section 36(b) of this Act with regard to such lead-nation procurement identified the transferees on whose behalf the lead-nation procurement was proposed.

13b. Sections 62 and 63, Arms Export Control Act [22 U.S.C. 2796a and 2796b]

CHAPTER 6—LEASES OF DEFENSE ARTICLES

* * * * *

SEC. 62. REPORTS TO THE CONGRESS.—(a) Not less than 30 days before entering into or renewing any agreement with a foreign country or international organization to lease any defense article under this chapter, or to loan any defense article under chapter 2 of part II of the Foreign Assistance Act of 1961, for a period of one year or longer, the President shall transmit to the Speaker of the House of Representatives, and to the chairman of the Committee on Foreign Relations of the Senate and the chairman of the Committee on Armed Services of the Senate, a written certification which specifies—

(1) the country or international organization to which the defense article is to be leased or loaned;

(2) the type, quantity, and value (in terms of replacement cost) of the defense article to be leased or loaned;

(3) the terms and duration of the lease or loan; and

(4) a justification for the lease or loan, including an explanation of why the defense article is being leased or loaned rather than sold under this Act.

(b) The President may waive the requirements of this section (and in the case of an agreement described in section 63, may waive the provisions of that section) if he determines, and immediately reports to the Congress, that an emergency exists which requires that the lease or loan be entered into immediately in the national security interests of the United States.

SEC. 63. LEGISLATIVE REVIEW.—(a)(1) In the case of any agreement involving the lease under this chapter, or the loan under chapter 2 of part II of the Foreign Assistance Act of 1961, to any foreign country or international organization for a period of one year or longer of any defense articles which are either (i) major defense equipment valued (in terms of its replacement cost less any depreciation in its value) at $14,000,000 or more, or (ii) defense articles valued (in terms of their replacement cost less any depreciation in their value) at $50,000,000 or more, the agreement may not be entered into or renewed if the Congress, within 30 calendar days after receiving the certification with respect to that proposed agreement pursuant to section 62(a), enacts a joint resolution prohibiting the proposed lease or loan.

(2) This section shall not apply with respect to a loan or lease to the North Atlantic Treaty Organization, any member country of that Organization, Japan, Australia, or New Zealand.

(b) Any joint resolution under subsection (a) shall be considered in the Senate in accordance with the provisions of section 601(b) of the International Security Assistance and Arms Export Control Act of 1976.

(c) For the purpose of expediting the consideration and enactment of joint resolutions under subsection (a), a motion to proceed to the consideration of any such resolution after it has been reported by the appropriate committee shall be treated as highly privileged in the House of Representatives.

13c. Nuclear Transfers and Detonations [Public Law 97-113, Section 737; 22 U.S.C. 2429]

PROHIBITIONS RELATING TO NUCLEAR TRANSFERS AND NUCLEAR DETONATIONS

SEC. 737. (a) The Congress finds that any transfer of a nuclear explosive device to a non-nuclear-weapon state or, in the case of a non-nuclear-weapon state, any receipt or detonation of a nuclear explosive device would cause grave damage to bilateral relations between the United States and that country.

(b) Section 669(b)(2) of the Foreign Assistance Act of 1961 is amended to read as follows:

"(2)(A) A certification under paragraph (1) of this subsection shall take effect on the date on which the certification is received by the Congress. However, if within thirty calender days after receiving this certification, the Congress adopts a concurrent resolution stating in substance that the Congress disapproves the furnishing of assistance pursuant to the certification, then upon the adoption of that resolution the certification shall cease to be effective and all deliveries of assistance furnished under the authority of that certification shall be suspended immediately.

"(B) Any concurrent resolution under this paragraph shall be considered in the Senate in accordance with the provisions of section 601(b) of the International Security Assistance and Arms Export Control Act of 1976.

"(C) For the purpose of expediting the consideration and adoption of concurrent resolutions under this paragraph, a motion to proceed to the consideration of any such resolution after it has been reported by the appropriate committee shall be treated as highly privileged in the House of Representatives.".

(c) Section 670 of such Act is amended to read as follows:

"SEC. 670. NUCLEAR REPROCESSING TRANSFERS, TRANSFERS OF NUCLEAR EXPLOSIVE DEVICES, AND NUCLEAR DETONATIONS.—(a)(1) Except as provided in paragraph (2) of this subsection, no funds authorized to be appropriated by this Act or the Arms Export Control Act may be used for the purpose of providing economic assistance (including assistance under chapter 4 of part II), providing military assistance or grant military education and training, providing assistance under chapter 6 of part II, or extending military credits or making guarantees, to any country which on or after the date of enactment of the International Security Assistance Act of 1977 delivers nuclear reprocessing equipment, materials, or technology to any other country or receives such equipment, materials, or technology from any other country (except for the transfer of reprocessing technology associated with the investigation, under international evaluation programs in which the United States participates, of technologies which are alternatives to pure plutonium reprocessing).

"(2) Notwithstanding paragraph (1) of this subsection, the President may furnish assistance which would otherwise be prohibited under that paragraph if he determines and certifies in writing to the Speaker of the House of Representatives and the Committee on Foreign Relations of the Senate that the termination of such assistance would be seriously prejudicial to the achievement of United States nonproliferation objectives or otherwise jeopardize the common defense and security. The President shall transmit with such certification a statement setting forth the specific reasons therefor.

"(3)(A) A certification under paragraph (2) of this subsection shall take effect on the date on which the certification is received by the Congress. However, if within 30 calendar days after receiving this certification, the Congress adopts a concurrent resolution stating in substance that the Congress disapproves the furnishing of assistance pursuant to the certification, then upon the adoption of that resolution the certification shall cease to be effective and all deliveries of assistance furnished under the authority of that certification shall be suspended immediately.

"(B) Any concurrent resolution under this paragraph shall be considered in the Senate in accordance with the provisions of section 601(b) of the International Security Assistance and Arms Export Control Act of 1976.

"(C) For the purpose of expediting the consideration and adoption of concurrent resolutions under this paragraph, a motion to proceed to the consideration of any such resolution after it has been reported by the appropriate committee shall be treated as highly privileged in the House of Representatives.

"(b)(1) Except as provided in paragraphs (2) and (3) of this subsection, no funds authorized to be appropriated by this act or the Arms Export Control Act may be used for the purpose of providing economic assistance (including assistance under chapter 4 of part II), providing military assistance or grant military education and training, providing assistance under chapter 6 of part II, or extending military credits or making guarantees, to any country which on or after the date of enactment of the International Security Assistance Act of 1977—

"(A) transfers a nuclear explosive device to a non-nuclear-weapon state, or

"(B) is a non-nuclear-weapon state and either—

"(i) receives a nuclear explosive device, or

"(ii) detonates a nuclear explosive device.

"(2)(A) Notwithstanding paragraph (1) of this subsection, the President may, for a period of not more than 30 days of continuous session, furnish assistance which would otherwise be prohibited under paragraph (1) of this subsection if, before furnishing such assistance, the President transmits to the Speaker of the House of Representatives, and to the chairman of the Committee on Foreign Relations of the Senate, a certification that he has determined that an immediate termination of assistance to that country would be detrimental to the national security of the United States. Not more than one such certification may be transmitted for a country with respect to the same detonation, transfer, or receipt of a nuclear explosive device.

"(B) If the President transmits a certification to the Congress under subparagraph (A), a joint resolution which would permit the President to exercise the waiver authority of paragraph (3) of this subsection shall, if introduced in either House within thirty days of continuous session after the Congress receives this certification, be considered in the Senate and House of Representatives in accordance with subparagraphs (C) and (D) of this paragraph.

"(C) Any joint resolution under this paragraph shall be considered in the Senate in accordance with the provisions of section 601(b) of the International Security Assistance and Arms Export Control Act of 1976.

"(D) For the purpose of expediting the consideration and adoption of joint resolutions under this paragraph, a motion to proceed to the consideration of such a joint resolution after it has been reported by the appropriate committee shall be treated as highly privileged in the House of Representatives.

"(E) For purposes of this paragraph, the term 'joint resolution' means a joint resolution the matter after the resolving clause of which is as follows: 'That the Congress having received on   a certification by the President under section 670(b)(2) of the Foreign Assistance Act of 1961 with respect to   , the Congress hereby authorizes the President to exercise the waiver authority contained in section 670(b)(3) of that Act.', with the date of receipt of the certification inserted in the first blank and the name of the country inserted in the second blank.

"(3) Notwithstanding paragraph (1) of this subsection, if the Congress enacts a joint resolution under paragraph (2) of this subsection, the President may furnish assistance which would otherwise be prohibited under paragraph (1) if he determines and certifies in writing to the Speaker of the House of Representatives and the Committee on Foreign Relations of the Senate that the termination of such assistance would be seriously prejudicial to the achievement of United States nonproliferation objectives or otherwise jeopardize the common defense and security. The President shall transmit with such certification a statement setting forth the specific reasons therefor.

"(4) For purposes of this subsection, continuity of session is broken only by an adjournment of Congress sine die and the days on which either House is not in session because of an adjournment of more than three days to a day certain are excluded in the computation of any period of time in which Congress is in continuous session.

"(5) As used in this subsection, the term 'non-nuclear-weapon state' means any country which is not a nuclear-weapon state, as defined in article IX(3) of the Treaty on the Non-Proliferation of Nuclear Weapons.".

14. Federal Election Commission Regulations [Public Law 96–187, Section 109; 2 U.S.C. 438(d)]

(d)(1) Before prescribing any rule, regulation, or form under this section or any other provision of this Act, the Commission shall transmit a statement with respect to such rule, regulation, or form to the Senate and the House of Representatives, in accordance with this subsection. Such statement shall set forth the proposed rule, regulation, or form, and shall contain a detailed explanation and justification of it.

(2) If either House of the Congress does not disapprove by resolution any proposed rule or regulation submitted by the Commission under this section within 30 legislative days after the date of the receipt of such proposed rule or regulation or within 10 legislative days after the date of receipt of such proposed form, the Commission may prescribe such rule, regulation, or form.

(3) For purposes of this subsection, the term "legislative day" means, with respect to statements transmitted to the Senate, any calendar day on which the Senate is in session, and with respect to statements transmitted to the House of Representatives, any calendar day on which the House of Representatives is in session.

(4) For purposes of this subsection, the terms "rule" and "regulation" mean a provision or series of interrelated provisions stating a single, separate rule of law.

(5)(A) A motion to discharge a committee of the Senate from the consideration of a resolution relating to any such rule, regulation, or form or a motion to proceed to the consideration of such a resolution, is highly privileged and shall be decided without debate.

(B) Whenever a committee of the House of Representatives reports any resolution relating to any such form, rule or regulation, it is at any time thereafter in order (even though a previous motion to the same effect has been disagreed to) to move to proceed to the consideration of the resolution. The motion is highly privileged and is not debatable. An amendment to the motion is not in order, and is not in order to move to reconsider the vote by which the motion is agreed to or disagreed with.

15. Alaska Natural Gas Transportation Act of 1976 [Public Law 94–586, Sections 8, 9; 90 Stat. 2909; 15 U.S.C. 719f]

*   *   *   *   *

SEC. 8. (c) For purposes of this section—

(1) continuity of session of Congress is broken only by an adjournment sine die; and

(2) the days on which either House is not in session because of an adjournment of more than 3 days to a day certain are excluded in the computation of the 60-day calendar period.

(d)(1) This subsection is enacted by Congress—

(A) as an exercise of the rulemaking power of each House of Congress, respectively, and as such it is deemed a part of the rules of each House, respectively, but applicable only with respect to the procedure to be followed in that House in the case of resolutions described by paragraph (2) of this subsection; and it supersedes other rules only to the extent that it is inconsistent therewith; and

(B) with full recognition of the constitutional right of either House to change the rules (so far as those rules relate to the procedure of that House) at any time, in the same manner and to the same extent as in the case of any other rule of such House.

*   *   *   *   *

(3) A resolution once introduced with respect to a Presidential decision on an Alaska natural gas transportation system shall be referred to one or more committees (and all resolutions with respect to the same Presidential decision on an Alaska natural gas transportation system shall be referred to the same committee or committees) by the President of the Senate or the Speaker of the House of Representatives, as the case may be.

(4)(A) If any committee to which a resolution with respect to a Presidential decision on an Alaska natural gas transportation system has been referred has not reported it at the end of 30 calendar days after its referral, it shall be in order to move either to discharge such committee from further consideration of such resolution or to discharge such committee from consideration of any other resolution with respect to such Presidential decision on an Alaska natural gas transportation system which has been referred to such committee.

(B) A motion to discharge may be made only by an individual favoring the resolution, shall be highly privileged (except that it may not be made after the committee has reported a resolution with respect to the same Presidential decision on an Alaska natural gas transportation system), and debate thereon shall be limited to not more than 1 hour, to be divided equally between those favoring and those opposing the resolution. An amendment to the motion shall not be in order, and it shall not be in order to move to reconsider the vote by which the motion was agreed to or disagreed to.

(C) If the motion to discharge is agreed to or disagreed to, the motion may not be made with respect to any other resolution with respect to the same Presidential decision on an Alaska natural gas transportation system.

(5)(A) When any committee has reported, or has been discharged from further consideration of, a resolution, but in no case earlier than 30 days after the date or receipt of the President's decision to the Congress, it shall be at any time thereafter in order (even though a previous motion to the same effect has been disagreed to) to move to proceed to the consideration of the resolution. The motion shall be highly privileged and shall not be debatable. An amendment to the motion shall not be in order, and it shall not be in order to move to reconsider the vote by which the motion was agreed to or disagreed to.

(B) Debate on the resolution described in subsection (d)(2)(A) shall be limited to not more than 10 hours and on any resolution described in subsection (g) to one hour. This time shall be divided equally between those favoring and those opposing such resolution. A motion further to limit debate shall not be debatable. An amendment to, or motion to recommit the resolution shall not be in order, and it shall not be in order to move to reconsider the vote by which such resolution was agreed to or disagreed to or, thereafter within such 60-day period, to consider any other resolution respecting the same Presidential decision.

(6)(A) Motions to postpone, made with respect to the discharge from committee, or the consideration of a resolution and motions to proceed to the consideration of other business, shall be decided without debate.

(B) Appeals from the decision of the Chair relating to the application of the rules of the Senate or the House of

Representatives, as the case may be, to the procedures relating to a resolution shall be decided without debate.

* * * * *

(g)(1) At any time after a decision designating a transportation system is submitted to the Congress pursuant to this section, if the President finds that any provision of law applicable to actions to be taken under subsection (a) or (c) of section 9 require waiver in order to permit expeditious construction and initial operation of the approved transportation system, the President may submit such proposed waiver to both Houses of Congress.

(2) Such provision shall be waived with respect to actions to be taken under subsection (a) or (c) of section 9 upon enactment of a joint resolution pursuant to the procedures specified in subsection (c) and (d) of this section (other than subsection (d)(2) thereof) within the first period of 60 calendar days of continuous session of Congress beginning on the date after the date of receipt by the Senate and House of Representatives of such proposal.

(3) The resolving clause of the joint resolution referred to in this subsection is as follows: "That the House of Representiatives and Senate approve the waiver of the provision of law ( ) as proposed by the President, submitted to the Congress on 19 ." The first blank space therein being filled with the citation to the provision of law and the second blank space therein being filled with the date on which the President submits his decision to the House of Representatives and the Senate.

(4) In the case of action with respect to a joint resolution described in this subsection, the phrase "a waiver of a provision of law" shall be substituted in subsection (d) for the phrase "the Alaska natural gas transportation system.".

AUTHORIZATIONS

SEC. 9. (a) To the extent that the taking of any action which is necessary or related to the construction and initial operation of the approved transportation system requires a certificate, right-of-way, permit, lease, or other authorization to be issued or granted by a Federal officer or agency, such Federal officer or agency shall—

(1) to the fullest extent permitted by the provisions of law administered by such officer or agency, but

(2) without regard to any provision of law which is waived pursuant to section 8(g) issue or grant such

certificates, permits, right-of-way, leases, and other authorizations at the earliest practicable date.

* * * * *

(c) Any certificate, right-of-way, permit, lease, or other authorization issued or granted pursuant to the direction under subsection (a) shall include the terms and conditions required by law unless waived pursuant to a resolution under section 8(g), and may include terms and conditions permitted by law, except that with respect to terms and conditions permitted but not required, the Federal officer or agency, notwithstanding any such other provision of law, shall have no authority to include terms and conditions as would compel a change in the basic nature and general route of the approved transportation system or those the inclusion of which would otherwise prevent or impair in any significant respect the expeditious construction and initial operation of such transportation system.

Pursuant to section 8(d)(6)(A) of this statute, supra, a privileged motion to resolve into the Committee of the Whole to consider a joint resolution providing a waiver of law under the statute is subject to a nondebatable motion to postpone to a day certain (or indefinitely) (Dec. 8, 1981, pp. 29972, 29973).

15a. Crude Oil Transportation Systems [Public Law 95-617; 92 Stat. 3162; 43 U.S.C. 2008]

SEC. 508. PROCEDURES FOR WAIVER OF FEDERAL LAW

(a) WAIVER OF PROVISIONS OF FEDERAL LAW.—The President may identify those provisions of Federal law (including any law or laws regarding the location of a crude oil transportation system but not including any provision of the antitrust laws) which, in the national interest, as determined by the President, should be waived in whole or in part to facilitate construction or operation of any such system approved under section 507 or of the Long Beach-Midland project, and he shall submit any such proposed waiver to both Houses of the Congress. The provisions so identified shall be waived with respect to actions to be taken to construct or operate such system or project only upon enactment of a joint resolution within the first period of 60 calendar days of continuous session of Congress beginning on the date of receipt by the House of Representatives and the Senate of such proposal.

(b) Joint Resolution.—The resolving clause of the joint resolution referred to in subsection (a) is as follows: "That the House of Representatives and Senate approve the waiver of the provisions of law (   ) as proposed by the President, submitted to the Congress on   , 19   .". The first blank space therein being filled with the citation to the provisions of law proposed to be waived by the President and the second blank space therein being filled with the date on which the President submits his decision to waive such provisions of law to the House of Representatives and the Senate. Rules and procedures for consideration of any such joint resolution shall be governed by section 8 (c) and (d) of the Alaskan Natural Gas Transportation Act, other than paragraph (2) of section 8(d), except that for the purposes of this subsection, the phrase "a waiver of provisions of law" shall be substituted in section 8(d) each place where the phrase "an Alaska natural gas transportation system" appears.

15b. Alaska National Need Mineral Activity Recommendation Process [Public Law 96-487, Sections 1502-03; 16 U.S.C. 3232-3]

Sec. 1502. (a) Recommendation.—At any time after the date of enactment of this Act the President may transmit a recommendation to the Congress that mineral exploration, development, or extraction not permitted under this Act or other applicable law shall be permitted in a specified area of the lands referred to in section 1501. Notice of such transmittal shall be published in the Federal Register. No recommendation of the President under this section may be transmitted to the Congress before ninety days after publication in the Federal Register of notice of his intention to submit such recommendation.

* * * * *

(d) Approval.—Any recommendation under this section shall take effect only upon enactment of a joint resolution approving such recommendation within the first period of one hundred and twenty calendar days of continuous session of Congress beginning on the date after the date of receipt by the Senate and House of Representatives of such recommendation. Any recommendation of the President submitted to Congress under subsection (a) shall be considered received by both Houses for purposes of this section on the first day on which both are in session occurring after such recommendation is submitted.

(e) ONE-HUNDRED-AND-TWENTY-DAY COMPUTATION.—For purposes of this section—

(1) continuity of session of Congress is broken only by an adjournment sine die; and

(2) the days on which either House is not in session because of an adjournment of more than three days to a day certain are excluded in the computation of the one-hundred-and-twenty-day calendar period.

EXPEDITED CONGRESSIONAL REVIEW

SEC. 1503. (a) RULEMAKING.—This subsection is enacted by Congress—

(1) as an exercise of the rulemaking power of each House of Congress, respectively, and as such it is deemed a part of the rules of each House, respectively, but applicable only with respect to the procedure to be followed in the House in the case of resolutions described by subsection (b) of this section and it supersedes other rules only to the extent that it is inconsistent therewith; and

(2) with full recognition of the constitutional right of either House to change the rules (so far as those relate to the procedure of that House) at any time, in the same manner and to the same extent as in the case of any other rule of such House.

(b) RESOLUTION.—For purposes of this section, the term "resolution" means a joint resolution, the resolving clause of which is as follows: "That the House of Representatives and Senate approve the recommendation of the President in submitted to the Congress on 19 .", the first blank space therein to be filled in with appropriate activity, the second blank space therein to be filled in with the name or description of the area of land affected by the activity; and the third blank space therein to be filled with the date on which the President submits his recommendation to the House of Representatives and the Senate. Such resolution may also include material relating to the application and effect of the National Environmental Policy Act of 1969 to the recommendation.

(c) REFERRAL.—A resolution once introduced with respect to such Presidential recommendation shall be referred to one or more committees (and all resolutions with respect to the same Presidential recommendation shall be referred to the same committee or committees) by the President of the Senate or the Speaker of the House of Representatives, as the case may be.

(d) OTHER PROCEDURES.—Except as otherwise provided in this section the provisions of section 8(d) of the Alaska Natural Gas Transportation Act shall apply to the consideration of the resolution.

16. Federal Land Policy and Management Act of 1976

* * * * *

A. Land Use Planning [Public Law 94-579, Section 202; 90 Stat. 1743; 43 U.S.C. 1712]

LAND USE PLANNING

SEC. 202. (a) The Secretary shall, with public involvement and consistent with the terms and conditions of this Act, develop, maintain, and, when appropriate, revise land use plans which provide by tracts or areas for the use of the public lands. Land use plans shall be developed for the public lands regardless of whether such lands previously have been classified, withdrawn, set aside, or otherwise designated for one or more uses.

* * * * *

(d) Any classification of public lands or any land use plan in effect on the date of enactment of this Act is subject to review in the land use planning process conducted under this section, and all public lands, regardless of classification, are subject to inclusion in any land use plan developed pursuant to this section. The Secretary may modify or terminate any such classification with such land use plans.

(e) The Secretary may issue management decisions to implement land use plans developed or revised under this section in accordance with the following:

(1) Such decisions, including but not limited to exclusions (that is, total elimination) of one or more of the principal or major uses made by a management

decision shall remain subject to reconsideration, modification, and termination through revision by the Secretary or his delegate, under the provisions of this section, of the land use plan involved.

(2) Any management decision or action pursuant to a management decision that excludes (that is, totally eliminates) one or more of the principal or major uses for two or more years with respect to a tract of land of one hundred thousand acres or more shall be reported by the Secretary to the House of Representatives and the Senate. If within ninety days from the giving of such notice (exclusive of days on which either House has adjourned for more than three consecutive days), the Congress adopts a concurrent resolution of nonapproval of the management decision or action, then the management decision or action shall be promptly terminated by the Secretary. If the committee to which a resolution has been referred during the said ninety day period has not reported it at the end of thirty calendar days after its referral, it shall be in order to either discharge the committee from further consideration of such resolution or to discharge the committee from consideration of any other resolution with respect to the management decision or action. A motion to discharge may be made only by an individual favoring the resolution, shall be highly privileged (except that it may not be made after the committee has reported such a resolution), and debate thereon shall be limited to not more than one hour, to be divided equally between those favoring and those opposing the resolution. An amendment to the motion shall not be in order, and it shall not be in order to move to reconsider the vote by which the motion was agreed to or disagreed to. If the motion to discharge is agreed to or disagreed to, the motion may not be made with respect to any other resolution with respect to the same management decision or action. When the committee has reported, or has been discharged from further consideration of a resolution, it shall at any time thereafter be in order (even though a previous motion to the same effect has been disagreed to) to move to proceed to the consideration of the resolution. The motion shall be highly privileged and shall not be debatable. An amendment to the motion shall not be in order, and it shall not be in

order to move to reconsider the vote by which the motion was agreed to or disagreed to.

B. Sales [Public Law 94-579, Section 203; 90 Stat. 2743; 43 U.S.C. 1713]

* * * * *

(c) Where a tract of the public lands in excess of two thousand five hundred acres has been designated for sale, such sale may be made only after the end of the ninety days (not counting days on which the House of Representatives or the Senate has adjourned for more than three consecutive days) beginning on the day the Secretary has submitted notice of such designation to the Senate and the House of Representatives, and then only if the Congress has not adopted a concurrent resolution stating that such House does not approve of such designation. If the committee to which a resolution has been referred during the said ninety day period has not reported it at the end of thirty calendar days after its referral, it shall be in order to either discharge the committee from further consideration of such resolution or to discharge the committee from consideration of any other resolution with respect to the designation. A motion to discharge may be made only by an individual favoring the resolution, shall be highly privileged (except that it may not be made after the committee has reported such a resolution), and debate thereon shall be limited to not more than one hour, to be divided equally between those favoring and those opposing the resolution. An amendment to the motion shall not be in order, and it shall not be in order to move to reconsider the vote by which the motion was agreed to or disagreed to. If the motion to discharge is agreed to or disagreed to, the motion may not be made with respect to any other resolution with respect to the same designation. When the committee has reported, or has been discharged from further consideration of a resolution, it shall at any time thereafter be in order (even though a previous motion to the same effect has been disagreed to) to move to proceed to the consideration of the resolution. The motion shall be highly privileged and shall not be debatable. An amendment to the motion shall not be in order, and it shall not be in order to move to reconsider the vote by which the motion was agreed to or disagreed to.

c. Withdrawals [Public Law 94–579, Section 204; 90 Stat. 2743; 43 U.S.C. 1714]

* * * * *

(c)(1) On and after the dates of approval of this Act a withdrawal aggregating five thousand acres or more may be made (or such a withdrawal or any other withdrawal involving the aggregate five thousand acres or more which terminates after such date of approval may be extended) only for a period of not more than twenty years by the Secretary on his own motion or upon request by a department or agency head. The Secretary shall notify both Houses of Congress of such a withdrawal no later than its effective date and the withdrawal shall terminate and become effective at the end of ninety days (not counting days on which the Senate or the House of Representatives has adjourned for more than three consecutive days) beginning on the day notice of such withdrawal has been submitted to the Senate and to the House of Representatives, if the Congress has adopted a concurrent resolution stating that such House does not approve the withdrawal. If the committee to which a resolution has been referred during the said ninety day period has not reported it at the end of thirty calendar days after its referral, it shall be in order to either discharge the committee from further consideration of such resolution or to discharge the committee from consideration of any other resolution with respect to the Presidential recommendation. A motion to discharge may be made only by an individual favoring the resolution, shall be highly privileged (except that it may not be made after the committee has reported such a resolution), and debate thereon shall be limited to not more than one hour, to be divided equally between those favoring and those opposing the resolution. An amendment to the motion shall not be in order, and it shall not be in order to move to reconsider the vote by which the motion was agreed to or disagreed to. If the motion to discharge is agreed to or disagreed to, the motion may not be made with respect to any other resolution with respect to the same Presidential recommendation. When the committee has reported, or has been discharged from further consideration of a resolution, it shall at any time thereafter be in order (even though a previous motion to the same effect has been disagreed to) to move to proceed to the consideration of the resolution. The motion shall be highly privileged and shall not be debatable. An amendment to the motion shall not be in order, and it shall not be in order to move to reconsider the vote by which the motion was agreed to or disagreed to.

D. Review of Withdrawals [Public Law 94-579, Section 204(1); 90 Stat. 2743; 43 U.S.C. 1714]

* * * * *

(l)(1) The Secretary shall, within fifteen years of the date of enactment of this Act, review withdrawals existing on the date of approval of this Act, in the States of Arizona, California, Colorado, Idaho, Montana, Nevada, New Mexico, Oregon, Utah, Washington, and Wyoming of (1) all Federal lands other than withdrawals of the public lands administered by the Bureau of Land Management and of lands which, on the date of approval of this Act, were part of Indian reservations and other Indian holdings, the National Forest System, the National Park System, the National Wildlife Refuge System, other lands administered by the Fish and Wildlife Service or the Secretary through the Fish and Wildlife Service, the National Wild and Scenic Rivers System, and the National System of Trails; and (2) all public lands administered by the Bureau of Land Management and of lands in the National Forest System (except those in wilderness areas, and those areas formally identified as primitive or natural areas or designated as national recreation areas) which closed the lands to appropriation under the Mining Law of 1872 (17 Stat. 91, as amended; 30 U.S.C. 22 et seq.) or to leasing under the Mineral Leasing Act of 1920 (41 Stat. 437, as amended; 30 U.S.C. 181 et seq.).

(2) In the review required by paragraph (1) of this subsection, the Secretary shall determine whether, and for how long, the continuation of the existing withdrawal of the lands would be, in his judgment, consistent with the statutory objectives of the programs for which the lands were dedicated and of the other relevant programs. The Secretary shall report his recommendations to the President, together with statements of concurrence or nonconcurrence submitted by the heads of the departments or agencies which administer the lands. The President shall transmit this report to the President of the Senate and the Speaker of the House of Representatives, together

with his recommendations for action by the Secretary, or for legislation. The Secretary may act to terminate withdrawals other than those made by Act of the Congress in accordance with the recommendations of the President unless before the end of ninety days (not counting days on which the Senate and the House of Representatives has adjourned for more than three consecutive days) beginning on the day the report of the President has been submitted to the Senate and the House of Representatives the Congress has adopted a concurrent resolution indicating otherwise. If the committee to which a resolution has been referred during the said ninety day period has not reported it at the end of thirty calendar days after its referral, it shall be in order to either discharge the committee from further consideration of such resolution or to discharge the committee from consideration of any other resolution with respect to the Presidential recommendation. A motion to discharge may be made only by an individual favoring the resolution, shall be highly privileged (except that it may not be made after the committee has reported such a resolution), and debate thereon shall be limited to not more than one hour, to be divided equally between those favoring and those opposing the resolution. An amendment to the motion shall not be in order, and it shall not be in order to move to reconsider the vote by which the motion was agreed to or disagreed to. If the motion to discharge is agreed to or disagreed to, the motion may not be made with respect to any other resolution with respect to the same Presidential recommendation. When the committee has reported, or has been discharged from further consideration of a resolution, it shall at any time thereafter be in order (even though a previous motion to the same effect has been disagreed to) to move to proceed to the consideration of the resolution. The motion shall be highly privileged and shall not be debatable. An amendment to the motion shall not be in order, and it shall not be in order to move to reconsider the vote by which the motion was agreed to or disagreed to.

17. International Fishery Agreements [Public Law 94-265, Section 203; 90 Stat. 331; 16 U.S.C. 1823]

SEC. 203. CONGRESSIONAL OVERSIGHT OF GOVERNING INTERNATIONAL FISHERY AGREEMENTS

(a) In General.—No governing international fishery agreement shall become effective with respect to the United States before the close of the first 60 calendar days of continuous session of the Congress after the date on which the President transmits to the House of Representatives and to the Senate a document setting forth the text of such governing international fishery agreement. A copy of the document shall be delivered to each House of Congress on the same day and shall be delivered to the Clerk of the House of Representatives, if the House is not in session, and to the Secretary of the Senate, if the Senate is not in session.

(b) Referral to Committees.—Any document described in subsection (a) shall be immediately referred in the House of Representatives to the Committee on Merchant Marine and Fisheries, and in the Senate to the Committees on Commerce and Foreign Relations.

(c) Computation of 60-Day Period.—For purposes of subsection (a)—

(1) continuity of session is broken only by an adjournment of Congress sine die; and

(2) the days on which either House is not in session because of an adjournment of more than 3 days to a day certain are excluded in the computation of the 60-day period.

(d) Congressional Procedures.—

(1) Rules of the house of representatives and senate.—The provisions of this section are enacted by the Congress—

(A) as an exercise of the rulemaking power of the House of Representatives and the Senate, respectively, and they are deemed a part of the rules of each House, respectively, but applicable only with respect to the procedure to be followed in that House in the case of fishery agreement resolutions described in paragraph (2), and they supersede other rules only to the extent that they are inconsistent therewith; and

(B) with full recognition of the constitutional right of either House to change the rules (so far as they relate to the procedure of that House) at any time, and in the same manner and to the same extent as in the case of any other rule of that House.

(2) Definition.—For purposes of this subsection, the term "fishery agreement resolution" refers to a joint resolution of either House of Congress—

(A) the effect of which is to prohibit the entering into force and effect of any governing international fishery agreement the text of which is transmitted to the Congress pursuant to subsection (a); and

(B) which is reported from the Committee on Merchant Marine and Fisheries of the House of Representatives or the Committee on Commerce or the Committee on Foreign Relations of the Senate, not later than 45 days after the date on which the document described in subsection (a) relating to that agreement is transmitted to the Congress.

(3) Placement on calendar.—Any fishery agreement resolution upon being reported shall immediately be placed on the appropriate calendar.

(4) Floor consideration in the house.—

(A) A motion in the House of Representatives to proceed to the consideration of any fishery agreement resolution shall be highly privileged and not debatable. An amendment to the motion shall not be in order, nor shall it be in order to move to reconsider the vote by which the motion is agreed to or disagreed to.

(B) Debate in the House of Representatives on any fishery agreement resolution shall be limited to not more than 10 hours, which shall be divided equally between those favoring and those opposing the resolution. A motion further to limit debate shall not be debatable. It shall not be in order to move to recommit any fishery agreement resolution or to move to reconsider the vote by which any fishery agreement resolution is agreed to or disagreed to.

(C) Motions to postpone, made in the House of Representatives with respect to the consideration of any fishery agreement resolution, and motions to proceed to the consideration of other business, shall be decided without debate.

(D) All appeals from the decisions of the Chair relating to the application of the Rules of the House of Representatives to the procedure relating to any fishery agreement resolution shall be decided without debate.

(E) Except to the extent specifically provided in the preceding provisions of this subsection, consideration of any fishery agreement resolution shall be governed by the Rules of the House of Representatives applicable to other bills and resolutions in similar circumstances.

18. Outer Continental Shelf Lands Act [Public Law 95-372; 43 U.S.C. 1337]

SEC. 205. (a) Subsections (a) and (b) of the Outer Continental Shelf Lands Act (43 U.S.C. 1337 (a) and (b)) are amended to read as follows:

"(a)(1) The Secretary is authorized to grant to the highest responsible qualified bidder or bidders by competitive bidding, under regulations promulgated in advance, any oil and gas lease on submerged lands of the Outer Continental Shelf which are not covered by leases meeting the requirements of subsection (a) of section 6 of this Act.

* * * * *

"(4)(A) The Secretary of Energy shall submit any bidding system authorized in subparagraph (H) of paragraph (1) to the Senate and House of Representatives. The Secretary may institute such bidding system unless either the Senate or the House of Representatives passes a resolution of disapproval within thirty days after receipt of the bidding system.

"(B) Subparagraphs (C) through (J) of this paragraph are enacted by Congress—

"(i) as an exercise of the rulemaking power of the Senate and the House of Representatives, respectively, and as such they are deemed a part of the rules of each House, respectively, but they are applicable only with respect to the procedures to be followed in that

House in the case of resolutions described by this paragraph, and they supersede other rules only to the extent that they are inconsistent therewith; and

"(ii) with full recognition of the constitutional right of either House to change the rules (so far as relating to the procedure of that House) at any time, in the same manner, and to the same extent as in the case of any other rule of that House.

"(C) A resolution disapproving a bidding system submitted pursuant to this paragraph shall immediately be referred to a committee (and all resolutions with respect to the same request shall be referred to the same committee) by the President of the Senate or the Speaker of the House of Representatives, as the case may be.

"(D) If the committee to which has been referred any resolution disapproving the bidding system of the Secretary has not reported the resolution at the end of ten calendar days after its referral, it shall be in order to move either to discharge the committee from further consideration of the resolution or to discharge the committee from further consideration of any other resolution with respect to the same bidding system which has been referred to the committee.

"(E) A motion to discharge may be made only by an individual favoring the resolution, shall be highly privileged (except that it may not be made after the committee has reported a resolution with respect to the same recommendation), and debate thereon shall be limited to not more than one hour, to be divided equally between those favoring and those opposing the resolution. An amendment to the motion shall not be in order, and it shall not be in order to move to reconsider the vote by which the motion is agreed to or disagreed to.

"(F) If the motion to discharge is agreed to or disagreed to, the motion may not be renewed, nor may another motion to discharge the committee be made with respect to any other resolution with respect to the same bidding system.

"(G) When the committee has reported, or has been discharged from further consideration of, a resolution as provided in this paragraph, it shall be at any time thereafter in order (even though a previous motion to the same effect has been disagreed to) to move to proceed to the consideration of the resolution. The motion shall be highly privileged and shall not be debatable. An amendment to the motion shall not be in order, and it shall not be in order to move to reconsider the vote by which the motion is agreed to or disagreed to.

"(H) Debate on the resolution is limited to not more than two hours, to be divided equally between those favoring and those opposing the resolution. A motion further to limit debate is not debatable. An amendment to, or motion to recommit, the resolution is not in order, and it is not in order to move to reconsider the vote by which the resolution is agreed to or disagreed to.

"(I) Motions to postpone, made with respect to the discharge from the committee, or the consideration of a resolution with respect to a bidding system, and motions to proceed to the consideration of other business, shall be decided without debate.

"(J) Appeals from the decisions of the Chair relating to the application of the rules of the Senate or the House of Representatives, as the case may be, to the procedure relating to a resolution with respect to a bidding system shall be decided without debate."

19. Natural Gas Policy Act [15 U.S.C. 3332, 3417]

SEC. 122. STANDBY PRICE CONTROL AUTHORITY.

(a) Reimposition of Price Controls.—The President, in accordance with subsection (c)(1), or the Congress, in accordance with subsection (c)(2), may reimpose maximum lawful prices for first sales of natural gas to which section 121(a) applies and delivery of which occurs after the effective date of the reimposition of such maximum lawful prices.

(b) Limitations.—A reimposition of maximum lawful prices under this section—

(1) may not take effect earlier than July 1, 1985, nor later than June 30, 1987; and

(2) shall remain in effect for a period of 18 months.

(c) Procedure for Reimposing Price Controls.—For purposes of this section—

(1) Presidential reimposition.—Any exercise of authority by the President under subsection (a) shall be by written order issued after May 31, 1985, and, subject to subsection (b), shall take effect for the first month beginning after the first 30 calendar days of continuous session of Congress (as determined in accordance with section 507(b)) after a copy of such order has been submitted to each House of the Con-

gress unless during such 30 calendar days of continuous session of Congress, the Congress adopts a concurrent resolution of disapproval described in section 507(c)(1).

(2) CONGRESSIONAL REIMPOSITION.—Any exercise of authority by the Congress under subsection (a) shall be by the adoption of a concurrent resolution after May 31, 1985, described in section 507(c)(2) and, subject to subsection (b), shall take effect for the first month beginning after the date of the adoption of such resolution.

* * * * *

SEC. 507. CONGRESSIONAL REVIEW.

(a) APPLICATION.—This section applies with respect to—

(1) any disapproval by concurrent resolution of a Presidential reimposition of maximum lawful prices under section 122;

(2) any congressional reimposition by concurrent resolution of maximum lawful prices under section 122; and

(3) any resolution of disapproval relating to incremental pricing under section 202(c) or 206(d)(2).

(b) DETERMINATION OF CALENDAR DAYS OF CONTINUOUS SESSION.—In determining calendar days of continuous session for purposes of provisions of this Act providing for disapproval under this section—

(1) continuity of session is broken only by an adjournment of Congress sine die; and

(2) the days which either House is not in session because of an adjournment of more than 3 days to a day certain are excluded in the computation of the 30-calendar-day period involved.

If both Houses are not in session on the day any submittal subject to disapproval is received by the appropriate offices of each House, for purposes of this section such submittal shall be deemed to have been submitted on the first succeeding day on which both Houses are in session. If both Houses of the Congress do not receive a submittal on the same day, it shall not be considered to be received by either House until the day on which both Houses receive it.

(c) RESOLUTION.—For purposes of this section, and sections 122, 202, and 206—

(1) CONCURRENT RESOLUTION DISAPPROVING REIMPOSITION OF PRICE CEILINGS.—The term "concurrent resolution of disapproval", when used with respect to reimposition of maximum lawful prices under section 122(c)(1), means a resolution the matter after the resolving clause of which is as follows: "That the Congress does not approve of the reimposition of maximum lawful prices for first sales of natural gas under section 122(c)(1) of the Natural Gas Policy Act of 1978 pursuant to the transmittal by the President to the Congress on   ,   19   .", the blank spaces being filled with the appropriate date.

(2) CONCURRENT RESOLUTION EFFECTING REIMPOSITION OF PRICE CEILINGS.—The term "concurrent resolution", when used with respect to reimposition of maximum lawful prices under section 122(c)(2), means a resolution the matter after the resolving clause of which is as follows: "That the Congress favors reimposition of maximum lawful prices for first sales of natural gas as provided for under section 122(c)(2) of the Natural Gas Policy Act of 1978.".

(3) RESOLUTION OF DISAPPROVAL OF INCREMENTAL PRICING ACTION.—The term "resolution of disapproval", when used with respect to incremental pricing rules, means a resolution the matter after the resolving clause of which is as follows: "That the   does not approve the proposed rule under section   of the Natural Gas Policy Act of 1978 (relating to incremental pricing of natural gas) a copy of which was transmitted to the Congress on   .", the first blank being filled with the House in which such resolution is introduced, the second blank space being filled with the section under which the proposed rule was issued, and the following blank spaces being filled with the appropriate date. For purposes of this paragraph, the term "rule" means any rule or any amendment thereto (other than a technical or clerical amendment).

(d) EXPEDITED PROCEDURE.—

(1) CONGRESSIONAL RULEMAKING POWER.—This subsection is enacted by Congress—

(A) as an exercise of the rulemaking power of the Senate and the House of Representatives, respectively, and as such it is deemed a part of the rules of each House, respectively, but applicable only with respect to the procedure to be followed in that House in the case of resolutions described by paragraph (2) of this subsection; and it supersedes other rules only to the extent that it is inconsistent therewith; and

(B) with full recognition of the constitutional right of either House to change the rules (so far as relating to the procedure of that House) at any time, in the same manner and to the same extent as in the case of any other rule of the House.

(2) REFERRAL.—A resolution described by paragraph (2) once introduced with respect to any submittal shall immediately be referred to a committee (and all resolutions with respect to the same submittal shall be referred to the same committee) by the President of the Senate or the Speaker of the House of Representatives, as the case may be.

(3) DISCHARGE.—

(A) IN GENERAL.—If the committee to which a resolution with respect to a submittal has been referred has not reported it at the end of 20 calendar days after its referral, it shall be in order to move either to discharge the committee from further consideration of such resolution or to discharge the committee from further consideration of any other resolution with respect to such submittal which has been referred to the committee.

(B) MOTIONS.—A motion of discharge may be made only by an individual favoring the resolution, shall be highly privileged (except that it may not be made after the committee has reported a resolution with respect to the same submittal) and debate thereon shall be limited to not more than one hour, to be divided equally between those favoring and those opposing the resolution. An amendment to the motion shall not be in order, and it shall not be in order to move to reconsider the vote by which the motion was agreed to or disagreed to.

(C) RENEWAL.—If the motion to discharge is agreed to or disagreed to, the motion may not be renewed, nor may another motion to discharge the committee be made with respect to any other resolution with respect to the same submittal.

(4) FLOOR CONSIDERATION.—

(A) MOTION TO CONSIDER.—When the committee has reported, or has been discharged from further consideration of, a resolution, it shall be at any time thereafter in order (even though a previous motion to the same effect has been disagreed to) to move to proceed to the consideration of the resolution. The motion shall be highly privileged and shall not be debatable. An amendment to the motion shall not be in order, and it shall not be in order to move to reconsider the vote by which the motion was agreed to or disagreed to.

(B) DEBATE AND CONSIDERATION.—Debate on the resolution referred to in subparagraph (A) of this paragraph shall be limited to not more than 10 hours, which shall be divided equally between those favoring and those opposing such resolution. A motion further to limit debate shall not be debatable. An amendment to, or motion to recommit, the resolution shall not be in order, and it shall not be in order to move to reconsider the vote by which such resolution was agreed to or disagreed to.

(6) DETERMINATION ON MOTIONS.—

(A) MOTIONS TO POSTPONE OR TO PROCEED TO OTHER BUSINESS.—Motions to postpone, made with respect to the discharge from committee, or the consideration of a resolution and motions to proceed to the consideration of other business, shall be decided without debate.

(B) APPEALS FROM THE DECISION OF THE CHAIR.—Appeals from the decision of the Chair relating to the application of the rules of the Senate or the House of Representatives, as the case may be, to the procedure relating to a resolution shall be decided without debate.

(7) SUBSEQUENT ACTION.—Notwithstanding any of the provisions of this subsection, if a House has approved a resolution with respect to a submittal, then it shall not be in order to consider in that House any other resolution with respect to the same such submittal.

Pursuant to section 507(d)(4) of the Natural Gas Policy Act of 1978, a motion to proceed to consideration in the House of a reported resolution referred to the House Calendar (since not affecting the U.S. Treasury), disapproving a proposed rule under the Act, is privileged and not debatable, and if the motion is agreed to the resolution is debatable for not to exceed 10 hours, divided between a Member in favor and a Member opposed (or a minority member if no Member seeks recognition in opposition) (May 20, 1980, p. 11800). In *Consumer Energy Council v. FERC*, 103 S.Ct. 3556 (1983), the Supreme Court summarily affirmed a Court of Appeals ruling declaring the provisions invalid with respect to incremental pricing simple resolutions of disapproval. The concurrent resolution procedures disapproving reimposition of price ceilings should be read in light of *INS v. Chadha*, 103 S.Ct. 2764 (1983).

20. Federal Trade Commission Improvements Act of 1980 [Public Law 96-252, Section 21, 94 Stat. 393; as extended by Public Law 97-377; 96 Stat. 1870; 15 U.S.C. 57a-1]

CONGRESSIONAL REVIEW OF RULES

Sec. 21. (a)(1) The Federal Trade Commission, after promulgating a final rule, shall submit such final rule to the Congress for review in accordance with this section. Such final rule shall be delivered to each House of the Congress on the same date and to each House of the Congress while it is in session. Such final rule shall be referred to the Committee on Commerce, Science, and Transportation of the Senate and to the Committee on Energy and Commerce of the House, respectively.

(2) Any such final rule shall become effective in accordance with its terms unless, before the end of the period of 90 calendar days of continuous session after the date such final rule is submitted to the Congress, both Houses of the Congress adopt a concurrent resolution disapproving such final rule.

(b)(1) The provisions of this subsection are enacted by the Congress—

(A) as an exercise of the rulemaking power of the Senate and the House of Representatives, respectively, and as such they are deemed a part of the rules of each House, respectively, but applicable only with respect to the procedure to be followed in that House in the case of concurrent resolutions which are subject to this section, and such provisions supersede other rules only to the extent that they are inconsistent with such other rules; and

(B) with full recognition of the constitutional right of either House to change the rules (so far as relating to the procedure of that House) at any time, in the same manner and to the same extent as in the case of any other rule of that House.

(2)(A) Any concurrent resolution disapproving a final rule of the Commission shall, upon introduction or receipt from the other House of the Congress, be referred immediately by the presiding officer of such House to the Committee on Commerce, Science, and Transportation of the Senate or to the Committee on Energy and Commerce of the House, as the case may be.

(B) If a committee to which a concurrent resolution is referred does not report such concurrent resolution before the end of the period of 75 calendar days of continuous session of the Congress after the referral of such resolution to the Committee on Commerce, Science, and Transportation of the Senate or to the Committee on Energy and Commerce of the House, as the case may be, under subsection (a)(1), it shall be in order to move to discharge any such committee from further consideration of such concurrent resolution.

(C)(i) A motion to discharge in the Senate may be made only by a Member favoring the concurrent resolution, shall be privileged (except that it may not be made after the committee has reported a concurrent resolution with respect to the same final rule of the Commission), and debate on such motion shall be limited to not more than 1 hour, to be divided equally between those favoring and those opposing the motion. An amendment to the motion shall not be in order, and it shall not be in order to move to reconsider the vote by which the motion was agreed to or disagreed to. If the motion to discharge is agreed to or disagreed to, the motion may not be renewed, nor may another motion to discharge the committee be made with respect to any other concurrent resolution with respect to the same final rule of the Commission.

(ii) A motion to discharge in the House may be made by presentation in writing to the Clerk. The motion may be called up only if the motion has been signed by one-fifth of the Members of the House. The motion is highly privileged (except that it may not be made after the committee has reported a concurrent resolution of disapproval with respect to the same rule). Debate on such motion shall be limited to not more than 1 hour, the time to be divided equally between those favoring and those opposing the motion. An amendment to the motion is not in order, and it is not in order to move to reconsider the vote by which the motion is agreed to or disagreed to.

(3)(A) When a committee has reported, or has been discharged from further consideration of, a concurrent resolution, it shall be at any time thereafter in order (even though a previous motion to the same effect has been disagreed to) to move to proceed to the consideration of the concurrent resolution. The motion shall be privileged in the Senate and highly privileged in the House of Representatives, and shall not be debatable. An amendment to the motion shall not be in order, and it shall not be in order to move to reconsider the vote by which the motion was agreed to or disagreed to.

(B) Debate on the concurrent resolution shall be limited to not more than 10 hours, which shall be divided equally between those favoring and those opposing such concurrent resolution. A motion further to limit debate shall not be debatable. An amendment to, or motion to recommit, the concurrent resolution shall not be in order, and it shall not be in order to move to reconsider the vote by which such concurrent resolution was agreed to or disagreed to.

(4) Appeals from the decision of the Chair relating to the application of the rules of the Senate or the House of Representatives, as the case may be, to the procedure relating to a concurrent resolution shall be decided without debate.

(5) Notwithstanding any other provision of this subsection, if a House has approved a concurrent resolution with respect to any final rule of the Commission, then it shall not be in order to consider in such House any other concurrent resolution with respect to the same final rule.

(c)(1) If a final rule of the Commission is disapproved by the Congress under subsection (a)(2), then the Commission may promulgate a final rule which relates to the same acts or practices as the final rule disapproved by the Congress in accordance with this subsection. Such final rule—

(A) shall be based upon—

(i) the rulemaking record of the final rule disapproved by the Congress; or

(ii) such rulemaking record and the record established in supplemental rulemaking proceedings conducted by the Commission in accordance with section 553 of title 5, United States Code, in any case in which the Commission determines that it is necessary to supplement the existing rulemaking record; and

(B) may contain such changes as the Commission considers necessary or appropriate.

(2) The Commission, after promulgating a final rule under this subsection, shall submit the final rule to the Congress in accordance with subsection (a)(1).

(d) Congressional inaction on, or rejection of, a concurrent resolution of disapproval under this section shall not be construed as an expression of approval of the final rule involved, and shall not be construed to create any presumption of validity with respect to such final rule.

* * * * *

(g)(1) For purposes of this section—

(A) continuity of session is broken only by an adjournment sine die; and

(B) days on which either House is not in session because of an adjournment of more than 5 days to a day certain are excluded in the computation of the periods specified in subsection (a)(2) and subsection (b).

(2) If an adjournment sine die of the Congress occurs after the Commission has submitted a final rule under subsection (a)(1), but such adjournment occurs—

(A) before the end of the period specified in subsection (a)(2); and

(B) before any action necessary to disapprove the final rule is completed under subsection (a)(2);

then the Commission shall be required to resubmit the final rule involved at the beginning of the next regular session of the Congress. The period specified in subsection (a)(2) shall begin on the date of such resubmission.

(h) For purposes of this section—

(1) The term "Commission" means the Federal Trade Commission.

(2) The term "concurrent resolution" means a concurrent resolution the matter after the resolving clause of which is as follows: "That the Congress disapproves the final rule promulgated by the Federal Trade Commission dealing with the matter of ———, which final rule was submitted to the Congress on ———.". (The blank spaces shall be filled appropriately.)

(3) The term "rule" means any rule promulgated by the Commission pursuant to the Federal Trade Commission Act (15 U.S.C. 41 et seq.), other than any rule

promulgated under section 18(a)(1)(A) of such Act (15 U.S.C. 57a(a)(1)(A)).

(i) The provisions of this section shall take effect on the date of the enactment of this Act and shall cease to have any force or effect after September 30, 1983.

[Note: The Committee on Interstate and Foreign Commerce became the Committee on Energy and Commerce effective January 3, 1981.] Where one-fifth of the Members of the House have signed a motion which has been made, by presentation in writing to the Clerk of the House, to discharge the Committee on Energy and Commerce from consideration of a concurrent resolution disapproving a Federal Trade Commission rule under section 21(b)(2)(C)(iii) of this statute, supra, that signed motion is printed in the Journal and Record (Dec. 10, 1981, p. 30765). A motion pursuant to this statute to resolve into the Committee of the Whole for consideration of a concurrent resolution of disapproval reported from committee within three days of the expiration of the 90-day congressional review period is highly privileged and may be offered before the third day on which a report thereon is available as required by clause 2(l)(6) of Rule XI, since that clause exempts from its operation any decision by a Government agency which would become effective unless disapproved by one or both Houses of Congress (May 26, 1982, pp. 12027-30). Under subsection (b)(3)(B) of the law, a motion to limit debate on such a concurrent resolution is privileged and is not debatable, and is in order pending the motion that the House resolve itself into the Committee of the Whole to consider the resolution (May 26, 1982, pp. 12027-30). In *Consumers Union, Inc. v. FTC*, 103 S.Ct. 3556 (1983), the Supreme Court summarily affirmed a U.S. Court of Appeals decision declaring this procedure invalid.

21. Energy Security Act [Public Law 96-294; 94 Stat. 619]

A. Development of Synthetic Fuel Under the Defense Production Act of 1950 [50 U.S.C. App. 2095 et seq.]

(1) Immediate production for defense needs

Sec. 104(e). Title III of the Defense Production Act of 1950 (50 U.S.C. App. 2091 et seq.) is amended by adding at the end thereof the following new sections:

"Sec. 305. (a)(1)(A) Subject to subsection (k)(1), in order to encourage and expedite the development of synthetic fuel for use for national defense purposes, the President, utilizing the provisions of this Act (other than sections 101(a), 101(b), 301, 302, 303, and 306), and any other applicable provision of law, shall take immediate action to achieve production of synthetic fuel to meet national defense needs.

* * * * *

"(b)(1)(A) To assist in carrying out the objective of this section, the President, subject to subsections (c) and (d), shall—

"(i) contract for purchases of, or commitments to purchase, synthetic fuel for Government use for defense needs;

"(ii) subject to paragraph (3), issue guarantees in accordance with the provisions of section 301, except that the provisions of section 301(e)(1)(B) shall not apply with respect to such guarantees; and

* * * * *

"(3) The President may not utilize the authority under paragraph (1) to provide any loan or guarantee in accordance with the provisions of section 301 or section 302 in amounts which exceed the limitations established in such sections unless the President submits to the Congress notification of the proposed loan or guarantee in the manner specified under section 307 and such proposed action is either approved or not disapproved by the Congress under such section. For purposes of section 307, any proposal pertaining to a proposed loan or guarantee, notice of which is transmitted to the Congress under this paragraph, shall be considered to be a synthetic fuel action.".

[Contracts for purchase of between 75,000 and 100,000 barrels per day of crude oil equivalent for government defense needs]

"Sec. 305. (d)(4)(A)(ii) With respect to any person, including any other person who is substantially controlled by such person (as determined by the Secretary of Energy), the President may not award any contract for the purchase or commitment to purchase of more than 75,000 barrels per day crude oil equivalent of synthetic fuel unless the President submits to the Congress notification of such proposed contract or commitment in the manner specified under section 307 and such proposed action is either approved or not disapproved by the Congress under such section. For purposes of section 307, any proposal pertaining to such a proposed contract or commitment, notice of which is transmitted to the Congress under this subparagraph, shall be considered to be a synthetic fuel action."

(2) "Standby" Synthetic Fuel Authorities of President

[Expedited synthetic fuel production for defense needs due to shortage of petroleum supplies of less than 25 percent]

"Sec. 306. (a)(1) At any time after the date of the enactment of this section, the President may, subject to paragraph (2), invoke the authorities provided under this section upon making all the following determinations and transmitting a report to the Congress regarding such determinations:

"(A) a national energy supply shortage has resulted or is likely to result in a shortfall of petroleum supplies in the United States, and such shortage is expected to persist for a period of time sufficient to seriously threaten the adequacy of defense fuel supplies essential to direct defense and direct defense industrial base programs;

"(B) the continued adequacy of such supplies cannot be assured and requires expedited production of synthetic fuel to provide such defense fuel supplies;

"(C) the expedited production of synthetic fuel to provide such defense fuel supplies will not be accomplished in a timely manner by the United States Synthetic Fuels Corporation; and

"(D) the exercise of the authorities provided under subsection (c) is necessary to provide for the expedited production of synthetic fuel to provide such defense fuel supplies.

"(2)(A) Any transmittal under paragrph (1) shall contain a determination by the President regarding the extent of the anticipated shortage of petroleum supplies. If the President determines that such shortage is greater than 25 percent, the authorities invoked by the President under this section shall be effective on the date on which the report required under paragraph (1) is transmitted to the Congress.

"(B) If the President determines that such shortage is less than 25 percent, the transmittal under paragraph (1) shall be made in accordance with section 307 and the authorities under this section shall be effective only as provided under such section. For purposes of section 307, any determination to invoke authorities under this section, notice of which is transmitted to the Congress under this subsection, shall be considered to be a synthetic fuel action."

[Applicability of Sec. 307 to synthetic fuel loan guarantees in excess of $38,000,000 and to synthetic fuel loans in excess of $48,000,000]

"Sec. 306. (c)(A)(4) The President may not utilize the authority under paragraph (1) to provide any loan or guarantee in accordance with the provisions of section 301 or section 302 in amounts which exceed the limitations established in such sections unless the President submits to the Congress notification of the proposed loan or guarantee in the manner specified under section 307 and such proposed action is either approved or not disapproved by the Congress under such section. For purposes of section 307, any proposal pertaining to a proposed loan or guarantee, notice of which is transmitted to the Congress under this paragraph, shall be considered to be a synthetic fuel action."

[Contracts for purchase of between 75,000 and 100,000 barrels per day of crude oil equivalent]

"Sec. 306. (d)(4)(B) With respect to any person, including any other person who is substantially controlled by such person (as determined by the Secretary of Energy), the President may not award any contract for the purchase of or commitment to purchase more than 75,000 barrels per day crude oil equivalent of synthetic fuel unless the President submits to the Congress notification of such proposed contract or commitment in the manner specified under section 307 and such proposed action is either approved or not disapproved by the Congress under such section. For purposes of section 307, any proposal pertaining to such a proposed contract or commitment, notice of which is transmitted to the Congress under this subparagraph, shall be considered to be a synthetic fuel action."

[Procedure for consideration in House of "synthetic fuel actions"]

"SEC. 307. (a) For purposes of this section, the term 'synthetic fuel action' means any matter required to be transmitted, or submitted to the Congress in accordance with the procedures of this section.

"(b) The President shall transmit any synthetic fuel action (bearing an identification number) to both Houses of the Congress on the same day. If both Houses are not in session on the day on which any synthetic fuel action is received by the appropriate officers of each House, such synthetic fuel action shall be deemed to have been received on the first succeeding day on which both Houses are in session.

"(c)(1) Except as provided in paragraph (2) and in subsection (e), if a synthetic fuel action is transmitted to both Houses of Congress, such synthetic fuel action shall take effect at the end of the first period of 30 calendar days of continuous session of the Congress after the date on which such synthetic fuel action is received by such Houses, unless between the date on which such synthetic fuel action is received and the end of such 30 calendar day period, either House passes a resolution stating in substance that such House does not favor such action.

"(2) A synthetic fuel action described in paragraph (1) may take effect prior to the expiration of the 30-calendar-day period after the date on which such action is received, if each House of Congress approves a resolution affirmatively stating in substance that such House does not object to such synthetic fuel action. Except as provided in subsection (e), in any such case, such synthetic fuel action shall take effect on the date on which such resolution is approved.

"(d) For purposes of subsection (c)—

"(1) continuity of session is broken only by an adjournment of the Congress sine die; and

"(2) the days on which either House is not in session because of an adjournment of more than 3 days to a day certain are excluded in the computation of the 30-calendar-day period.

"(e) Under provisions contained in a synthetic fuel action, any provision of such synthetic fuel action may take effect on a date later than the date on which such synthetic fuel action otherwise would take effect, if such action is not disapproved, pursuant to the provisions of this section.

"(f) This section is enacted by the Congress—

"(1) as an exercise of the rulemaking power of the Senate and the House of Representatives, respectively, and as such it is deemed a part of the rules of each House, respectively, but applicable only with respect to the procedure to be followed in that House in the case of resolutions described by subsection (g) of this section, and it supersedes other rules only to the extent that it is inconsistent with such rules; and

"(2) with full recognition of the constitutional right of either House to change the rules (so far as they relate to the procedure of that House) at any time, in the same manner and to the same extent as in the case of any other rule of the House.

"(g)(1) For purposes of subsection (b), the term 'resolution' means a resolution of either House of the Congress described in paragraph (2) or paragraph (3).

"(2) A resolution the matter after the resolving clause of which is as follows: 'That the ——— does not object to the synthetic fuel action numbered ——— received by the Congress on ———, 19—.', the first blank space therein being filled with the name of the resolving House and the other blank spaces being appropriately filled. Any such resolution may only contain a reference to one synthetic fuel action.

"(3) A resolution the matter after the resolving clause of which is as follows: 'That the ——— does not favor the synthetic fuel action numbered ——— received by the Congress on ———, 19—.', the first blank space therein being filled with the name of the resolving House and the other blank spaces therein being appropriately filled. Any such resolution may only contain a reference to one synthetic fuel action.

"(4) A resolution once introduced with respect to a synthetic fuel action shall immediately be referred to a committee (and all resolutions with respect to the same synthetic fuel action shall be referred to the same committee) by the President of the Senate or the Speaker of the House of Representatives, as the case may be.

"(5)(A) If the committee to which a resolution with respect to a synthetic fuel action has been referred has not reported it at the end of 20 calendar days after it was received by the House involved, it shall be in order to move either to discharge the committee from further consideration of such resolution or to discharge the committee from further consideration of any other resolution with respect to such synthetic fuel action which has been referred to the committee.

"(B) A motion to discharge may be made only by an individual favoring the resolution, shall be highly privileged (except that it may not be made after the committee has reported a resolution with respect to the same synthetic fuel action), and debate thereon shall be limited to not more than one hour, to be divided equally between those favoring and those opposing the resolution. An amendment to the motion shall not be in order, and it shall not be in order to move to reconsider the vote by which the motion was agreed to or disagreed to.

"(C) If the motion to discharge is agreed to or disagreed to the motion may not be renewed, nor may another motion to discharge the committee be made with respect to any other resolution with respect to the same synthetic fuel action.

"(6)(A) When the committee has reported (or has been discharged from further consideration of) a resolution, it shall be at any time thereafter in order (even though a previous motion to the same effect has been disagreed to) to move to proceed to the consideration of the resolution. The motion shall be highly privileged and shall not be debatable. An amendment to the motion shall not be in order, and it shall not be in order to move to reconsider the vote by which the motion was agreed to or disagreed to.

"(B) Debate on the resolution referred to in subparagraph (A) of this paragraph shall be limited to not more than 5 hours, which shall be divided equally between those favoring and those opposing such resolution. A motion further to limit debate shall not be debatable. An amendment to, or motion to recommit, the resolution shall not be in order, and it shall not be in order to move to reconsider the vote by which such resolution was agreed to or disagreed to, except that it shall be in order—

"(i) to offer an amendment in the nature of a substitute, consisting of the text of the resolution described in paragraph (2) with respect to a synthetic fuel action, for a resolution described in paragraph (3) with respect to the same synthetic fuel action; or

"(ii) to offer an amendment in the nature of a substitute consisting of the text of a resolution described in paragraph (3) with respect to a synthetic fuel action, for a resolution described in paragraph (2) with respect to the same such synthetic fuel action.

"(C) The amendments described in clauses (i) and (ii) of subparagraph (B) shall not be amendable and shall be debatable under the 5-minute rule in the House of Representatives by the offering of pro forma amendments.

"(7)(A) Motions to postpone made with respect to the discharge from committee or the consideration of a resolution and motions to proceed to the consideration of other business shall be decided without debate.

"(B) Appeals from the decision of the Chair relating to the application of the rules of the Senate or the House of Representatives, as the case may be, to the procedure relating to a resolution shall be decided without debate.

"(8) Notwithstanding any of the provisions of this subsection, if a House has approved a resolution with respect to a synthetic fuel action, then a motion to recommit shall not be in order nor shall it be in order to consider in that House any other resolution with respect to the same synthetic fuel action."

B. U.S. Synthetic Fuels Corporation [42 U.S.C. 8721 et seq.]

(1) National synthetic fuel production goal

SEC. 125. There is hereby established a national goal of achieving a synthetic fuel production capability equivalent to at least 500,000 barrels per day of crude oil by 1987 and of at least 2,000,000 barrels per day of crude oil by 1992, from domestic resources.

[Comprehensive strategy to achieve production goal]

SEC. 126. (b)(2) Subject to the requirements of paragraph (3), not later than four years after the effective date of this part, the Board of Directors shall adopt and directly submit its proposed comprehensive strategy to the Congress. Such comprehensive strategy, when approved pursuant to subsection (c), shall become the comprehensive strategy of the Corporation to achieve the national synthetic fuel production goal established by section 125.

[Congressional review procedure]

SEC. 126. (c)(1)(A) The comprehensive strategy submitted by the Board of Directors to the Congress pursuant to subsection (b)(2) shall be deemed approved if a joint resolution of approval has been enacted into law during the same Congress in which such comprehensive strategy was submitted to the Congress. If either House of the Congress within ninety calendar days of continuous session after introduction fails to pass such a joint resolution or rejects such a joint resolution, the comprehensive strategy shall be deemed disapproved. For purposes of this subsection, the term "joint resolution" means only a joint resolution of either House of Congress as described in paragraph (5) or paragraph (10)(B).

(B) Ninety calendar days after receipt by the Congress of the comprehensive strategy, on the first day that both Houses of the Congress are in session after such ninety-day period, a joint resolution of approval containing the authorization of appropriations requested by the Corporation for the proposed comprehensive strategy shall be introduced in their respective Houses by the Chairman of the Committee on Energy and Natural Resources of the Senate and the Majority Leader of the House of Representatives.

(C) The Corporation may withdraw the comprehensive strategy any time prior to the adoption of such joint resolution by either House of the Congress.

(2) Upon introduction, the joint resolution shall be referred immediately to the Committee on Energy and Natural Resources of the Senate and the appropriate committee or committees of the House of Representatives.

(3) For the purpose of subsection (c)(1)(A) of this section—

(A) continuity of session is broken only by an adjournment of Congress sine die at the end of the second session of a Congress; and

(B) the days on which either House is not in session because of an adjournment of more than 3 days to a day certain are excluded in the computation of the calendar-day period involved.

(4) This subsection is enacted by Congress—

(A) as an exercise of the rulemaking power of the Senate and House of Representatives, respectively, and as such it is deemed a part of the rules of each House respectively, but applicable only with respect to the procedure to be followed in that House in the case of resolutions described by paragraph (5) of this subsection; and it supersedes other rules only to the extent that it is inconsistent therewith; and

(B) with full recognition of the constitutional right or either House to change the rules (so far as relating to the procedure of that House) at any time, in the same manner and to the same extent as in the case of any other rule of the respective House.

(5) The joint resolution approving the comprehensive strategy under this part shall read as follows after the resolving clause: "That the Congress of the United States approves the comprehensive strategy submitted to the Congress by the United States Synthetic Fuels Corporation on ________ and ________ dollars are hereby authorized to be appropriated without fiscal year limitation to the Secretary of the Treasury to purchase and retain notes or other obligations of the United States Synthetic Fuels Corporation.", the first blank space therein being filled with the date and year, the second blank space therein being filled with the appropriate dollar figure.

(6)(A) If any committee to which such joint resolution with respect to the comprehensive strategy has been referred has not reported it at the end of 60 calendar days after its referral, it shall be in order to move either to discharge any such committee from further consideration of such joint resolution or to discharge any such committee from further consideration of any other joint resolution with respect to such comprehensive strategy which has been referred to such committee.

(B) A motion to discharge may be made only by an individual favoring such joint resolution, shall be highly privileged (except that it may not be made after all committees to which such joint resolution has been referred have reported a joint resolution with respect to the comprehensive strategy), and debate thereon shall be limited to not more than 1 hour, to be divided equally between those favoring and those opposing the joint resolution. Except to the extent provided in paragraph (9)(A), an amendment to the motion shall not be in order, and it shall not be in order to move to reconsider the vote by which the motion was agreed to or disagreed to.

(C) If the motion to discharge is agreed to or disagreed to, the motion may not be renewed, nor may another motion to discharge the committee be made with respect to any other joint resolution with respect to the same comprehensive strategy.

(7)(A) When all such committees have reported, or have been discharged from further consideration of, a joint resolution, it shall be at any time thereafter in order (even though a previous motion to the same effect has been disagreed to) to move to proceed to the consideration of such a joint resolution. The motion shall be highly privileged and shall not be debatable. An amendment to the motion shall not be in order, and it shall not be in order to move to reconsider the vote by which the motion was agreed to or disagreed to.

(B) Debate on the joint resolution and all amendments thereto pursuant to paragraph (9)(A) shall be limited to not more than 10 hours and final action on the joint resolution shall occur immediately following conclusion of such debate. A motion further to limit debate shall not be debatable. Except to the extent provided in paragraph (9)(B), an amendment to, or motion to recommit such a joint resolution shall not be in order, and it shall not be in order to move to reconsider the vote by which such a joint resolution was agreed to or disagreed to.

(8)(A) Motions to postpone made with respect to the discharge from committee or the consideration of a joint resolution shall be decided without debate.

(B) Appeals from the decision of the Chair relating to the application of the rules of the Senate or the House of Representatives, as the case may be, to the procedures relating to a joint resolution shall be decided without debate.

(9) With respect to the comprehensive strategy—

(A) In the consideration of any such joint resolution on any such comprehensive strategy, it shall be in order to offer an amendment to the dollar figure in the second blank of the text of the joint resolution described in paragraph (5), and any amendments thereto only containing such a dollar figure. No other amendments except pro forma amendments shall be in order.

(B) If one House receives from the other House a joint resolution with respect to the comprehensive strategy, then the following procedure applies:

(i) the joint resolution of the other House with respect to such comprehensive strategy shall not be referred to a committee; and

(ii) in the case of a joint resolution of the first House with respect to such plan—

(I) the procedure with respect to that or other resolutions of such House with respect to such plan shall be the same as if no joint resolution from the other House with respect to such comprehensive strategy had been received; but

(II) on any vote on final passage of a resolution of the first House with respect to such plan a resolution from the other House with respect to such plan where the text is identical shall be automatically substituted for the joint resolution of the House.

(10)(A) The Corporation at any time after the approval of the comprehensive strategy may submit requests pursuant to subsection (b)(4) for additional authorizations of appropriations each of which shall be in the form of a joint resolution of approval (bearing an identification number).

(B) Such joint resolution shall read as follows after the resolving clause: "That the Congress of the United States approves the request transmitted to the Congress by the United States Synthetic Fuels Corporation on ________ and there are hereby authorized to be appropriated without fiscal year limitation to the Secretary of the Treasury to purchase and retain notes or other obligations of the United States Synthetic Fuels Corporation the sum of ________ dollars.", the first blank space therein being filled with the day and year, and the second blank space therein being filled with the appropriate dollar figure.

(C) On the first day that both Houses of the Congress are in session after receipt of a joint resolution of approval containing the additional authorization of appropriations requested by the Corporation, the joint resolution described in subparagraph (B) shall be introduced in their respective Houses by the Chairman of the Committee on Energy and Natural Resources of the Senate and the Majority Leader of the House of Representatives. Such resolution shall be considered in accordance with the procedures of this subsection.

(11) The aggregate of the authorizations of appropriations under paragraph (5) enacted into law and any subsequent requests by the Corporation for additional authorizations for appropriations under paragraph (10) enacted into law shall not exceed $68,000,000,000.

[Late submission of comprehensive strategy]

SEC. 127. (d)(1) Notwithstanding the provisions of subsection (c), if at the expiration of such time as the Corporation is permitted for submission of its comprehensive strategy to the Congress, the Corporation determines that an adequate basis of knowledge has not yet been developed upon which to formulate and implement a comprehensive strategy for the achievement of the national synthetic fuel production goal established in section 125, the Corporation shall report the reasons for such determination to the Congress, and may request, in a Corporation synthetic fuel action pursuant to section 128, such additional time up to one year as the Corporation considers necessary for the formulation of its proposed comprehensive strategy.

(2) Such request shall be deemed approved unless disapproved by either House of Congress pursuant to section 128. If such request is disapproved pursuant to section 128, the Corporation shall submit its proposed comprehensive strategy to the Congress within ninety days of such disapproval.

(3) The Board of Directors may, consistent with the purposes of this title, amend the approved comprehensive strategy if, in their judgment, such amendment is necessary to achieve the national synthetic fuel production goal set forth in section 125. If such amendment would substantially alter the use of funds previously approved by the Congress pursuant to subsection (c), the Board of Directors may not implement such amendment unless such amendment has been submitted to the Congress and has been approved pursuant to section 129. Any such amendment and its justification shall be included in the subsequent quarterly report to the Congress pursuant to section 177(c).

(2) Congressional disapproval procedure for certain "synthetic fuel actions" submitted with respect to certain loans under section 132; loan guarantees under section 133, and acquisition of assets under section 137. This procedure is also applicable to certain construction projects under section 141 and financial assistance to synthetic fuel projects outside the United States

SEC. 128. (a) For purposes of this section, the term "Corporation synthetic fuel action" means any matter required to be transmitted, or submitted to the Congress in accordance with the procedures of this section.

(b) The Corporation shall transmit any Corporation synthetic fuel action (bearing an identification number) to both Houses of the Congress on the same day. If both Houses are not in session on the day on which any Corporation synthetic fuel action is transmitted to the appropriate officers of each House, for the purposes of this section such Corporation synthetic fuel action shall be deemed to have been received on the first succeeding day on which both Houses are in session.

(c) Except as provided in subsection (e), if a Corporation synthetic fuel action is transmitted to both Houses of Congress, such Corporation synthetic fuel action shall take effect at the end of the first period of 30 calendar days of continuous session of the Congress after the date on which such Corporation synthetic fuel action is received by such Houses, unless between the date on which such Corporation synthetic fuel action is received and the end of such 30-calendar-day period, either House passes a resolution stating in substance that such House does not favor such action.

(d) For purposes of subsection (c)—

(1) continuity of session is broken only by an adjournment of the Congress sine die; and

(2) the days on which either House is not in session because of an adjournment of more than 3 days to a day certain are excluded in the computation of the 30-calendar-day period.

(e) Under provisions contained in a Corporation synthetic fuel action, any provision of such Corporation synthetic fuel action may take effect on a date later than the date on which such Corporation synthetic fuel action otherwise would take effect, if such action is not disapproved, pursuant to the provisions of this section.

(f) This section is enacted by the Congress—

(1) as an exercise of the rulemaking power of the Senate and the House of Representatives, respectively, and as such, it is deemed a part of the rules of each House, respectively, but applicable only with respect to the procedure to be followed in that House in the case of resolutions described by subsection (g) of this section, and it supersedes other rules only to the extent that it is inconsistent with such rules; and

(2) with full recognition of the constitutional right of either House to change the rules (so far as they relate to the procedure of that House) at any time, in the same manner and to the same extent as in the case of any other rule of the House.

(g)(1) For purposes of subsection (b), the term "resolution" means only a resolution of either House of the Congress the matter after the resolving clause of which is as follows: "That the ——— does not favor the Corporation synthetic fuel action numbered ——— received by the Congress on ———, 19—.", the first blank space therein being filled with the name of the resolving House and the other blank spaces therein being appropriately filled. Any such resolution may only contain a reference to one Corporation synthetic fuel action.

(2) A resolution once introduced with respect to a Corporation synthetic fuel action shall immediately be referred to the Committee on Energy and Natural Resources of the Senate and to the appropriate committee or committees of the House of Representatives (and all resolutions with respect to the same Corporation synthetic fuel action shall be referred to the same committee or committees).

(3)(A) If any committee to which a resolution with respect to a Corporation synthetic fuel action has been referred has not reported it at the end of 20 calendar days after it was received by the House involved, it shall be in order to move either to discharge such committee from further consideration of such resolution or to discharge such committee from further consideration of any other resolution with respect to such Corporation synthetic fuel action which has been referred to the committee.

(B) A motion to discharge may be made only by an individual favoring the resolution, shall be highly privileged (except that it may not be made after the committee has reported a resolution with respect to the same Corporation synthetic fuel action), and debate thereon shall be limited to not more than one hour, to be divided equally between those favoring and those opposing the resolution. An amendment to the motion shall not be in order, and it shall not be in order to move to reconsider the vote by which the motion was agreed to or disagreed to.

(C) If the motion to discharge is agreed to or disagreed to, the motion may not be renewed, nor may another motion to discharge the committee be made with respect to any other resolution with respect to the same Corporation synthetic fuel action.

(4)(A) When all committees to which the resolution was referred have reported (or have been discharged from further consideration of) a resolution, it shall be at any time thereafter in order (even though a previous motion to the same effect has been disagreed to) to move to proceed to the consideration of the resolution. The motion shall be highly privileged and shall not be debatable. An amendment to the motion shall not be in order, and it shall not be in order to move to reconsider the vote by which the motion was agreed to or disagreed to.

(B) Debate on the resolution referred to in subparagraph (A) of this paragraph shall be limited to not more than 5 hours, which shall be divided equally between those favoring and those opposing such resolution. A motion further to limit debate shall not be debatable. An amendment to, or motion to recommit, the resolution shall not be in order, and it shall not be order to move to reconsider the vote by which such resolution was agreed to or disagreed to.

(5)(A) Motions to postpone made with respect to the discharge from committee or the consideration of a resolution and motions to proceed to the consideration of other business shall be decided without debate.

(B) Appeals from the decision of the Chair relating to the application of the rules of the Senate or the House of Representatives, as the case may be, to the procedure relating to a resolution shall be decided without debate.

(6) Notwithstanding any of the provisions of this subsection, if a House has approved a resolution with respect to a Corporation synthetic fuel action, then it shall not be in order to consider in that House any other resolution with respect to the same Corporation synthetic fuel action.

(3) Amendments to comprehensive strategy; Congressional approval procedure

SEC. 129. (a)(1) Any amendment to the comprehensive strategy submitted by the Board of Directors to the Congress pursuant to section 126(d) shall be deemed approved if a concurrent resolution of approval has been approved by the Congress during the same Congress in which such request was submitted. If the Congress, within 90 calendar days of continuous session after introduction, fails to approve such a concurrent resolution or either House of Congress rejects such a concurrent resolution, the request shall be deemed disapproved.

(2) On the first day that both Houses of Congress are in session after receipt of such amendment, a concurrent resolution of approval shall be introduced in their respective Houses by the Chairman of the Committee on Energy and Natural Resources of the Senate and the Majority Leader of the House of Representatives.

(3) The Corporation may withdraw the amendment any time prior to the adoption of such concurrent resolution by either House of the Congress.

(b) Upon introduction, the concurrent resolution shall be referred immediately to the Committee on Energy and Natural Resources of the Senate and the appropriate committee or committees of the House of Representatives.

(c) For the purpose of subsection (a)(1) of this section—

(1) continuity of session is broken only by an adjournment of Congress sine die at the end of the second session of a Congress; and

(2) the days on which either House is not in session because of an adjournment of more than 3 days to a day certain are excluded in the computation of the calendar day period involved.

(d) This subsection is enacted by Congress—

(1) as an exercise of the rulemaking power of the Senate and House of Representatives, respectively, and as such it is deemed a part of the rules of each House, respectively, but applicable only with respect to the procedure to be followed in that House in the case of resolutions described by subsection (e) of this section; and it supersedes other rules only to the extent that it is inconsistent therewith; and

(2) with full recognition of the constitutional right of either House to change the rules (so far as relating to the procedure of that House) at any time, in the

same manner and to the same extent as in the case of any other rule of the respective House.

(e) The concurrent resolution approving the amendment under this part shall read as follows after the resolving clause: "That the Congress of the United States approves the amendment to the comprehensive strategy submitted to the Congress by the United States Synthetic Fuels Corporation on ———.", the blank space therein being filled with the date and the year.

(f)(1) If any committee to which such concurrent resolution with respect to the amendment to the comprehensive strategy has been referred has not reported it at the end of 60 calendar days after its referral, it shall be in order to move either to discharge any such committee from further consideration of such concurrent resolution or to discharge any such committee from further consideration of any other concurrent resolution with respect to such amendment to the comprehensive strategy which has been referred to such committee.

(2) A motion to discharge may be made only by an individual favoring such concurrent resolution, shall be highly privileged (except that it may not be made after all committees to which such joint resolution has been referred have reported a concurrent resolution with respect to the request), and debate thereon shall be limited to not more than 1 hour, to be divided equally between those favoring and those opposing the concurrent resolution. An amendment to the motion shall not be in order, and it shall not be in order to move to reconsider the vote by which the motion was agreed to or disagreed to.

* * * * *

(3) If the motion to discharge is agreed to or disagreed to, the motion may not be renewed, nor may another motion to discharge the committee be made with respect to any other concurrent resolution with respect to the same amendment to the comprehensive strategy.

(g)(1) When all such committees have reported (or have been discharged from further consideration of) a concurrent resolution, it shall be at any time thereafter in order (even though a previous motion to the same effect has been disagreed to) to move to proceed to the consideration of such a concurrent resolution. The motion shall be highly privileged and shall not be debatable. An amendment to the motion shall not be in order, and it shall not be in order to move to reconsider the vote by which the motion was agreed to or disagreed to.

(2) Debate on the concurrent resolution shall be limited to not more than 5 hours and final action on the concurrent resolution shall occur immediately following conclusion of such debate. The 5 hours shall be equally divided between supporters and opponents of such resolution. A motion further to limit debate shall not be debatable. Except to the extent provided in subsection (i), an amendment to, or motion to recommit such a concurrent resolution shall not be in order, and it shall not be in order to move to reconsider the vote by which such a concurrent resolution was agreed to or disagreed to.

(h)(1) Motions to postpone, made with respect to the discharge from committee, or the consideration of a concurrent resolution, shall be decided without debate.

(2) Appeals from the decision of the Chair relating to the application of the rules of the Senate or the House of Representatives, as the case may be, to the procedures relating to a concurrent resolution shall be decided without debate.

(i) With respect to a concurrent resolution related to an amendment to the comprehensive strategy, if one House receives from the other House a concurrent resolution with respect to such amendment, then the following procedure applies:

(1) the concurrent resolution of the other House with respect to such request shall not be referred to a committee; and

(2) in the case of a concurrent resolution of the first House with respect to such request—

(A) the procedure with respect to that or other concurrent resolutions of such House with respect to such amendment shall be the same as if no concurrent resolution from the other House with respect to such request had been received; but

(B) on any vote on final passage of a concurrent resolution of the first House with respect to such amendment a concurrent resolution from the other House with respect to such plan where the text is identical shall be automatically substituted for the concurrent resolution of the first House.

SEC. 132. (a)(3)(B) If the revised total estimated cost exceeds 200 per centum of the initial total estimated cost, up to 40 per centum of the amount in excess of 200 per centum of the initial total estimated cost, except that if the revised total estimated cost exceeds 250 per centum of the initial total estimated cost the Corporation shall not award such additional amounts unless the Corporation has transmitted to the Congress a Corporation synthetic fuel action pursuant to section 128, and such Corporation synthetic fuel action has not been disapproved.

* * * * *

LOAN GUARANTEES MADE BY THE CORPORATION

[42 U.S.C. 8733]

SEC. 133. (a)(1) Subject to the limitations set forth in paragraphs (2) and (3), the Corporation is authorized, on such terms and conditions (including the right of subrogation) as the Board of Directors may prescribe, to commit to, or enter into loan guarantees against loss of principal and interest on bonds, notes, or other obligations (including refinancing thereof) issued solely to provide funds to any concern for a synthetic fuel project.

* * * * *

(B) if the revised total estimated cost exceeds 200 per centum of the initial total estimated cost, up to 40 per centum of the amount in excess of 200 per centum of the initial total estimated cost, except if the revised total estimated cost exceeds 250 per centum of the initial total estimated cost, the Corporation shall not award such additional amounts unless the Corporation has transmitted to the Congress a Corporation synthetic fuel action pursuant to section 128 and such Corporation synthetic fuel action has not been disapproved pursuant to such section.

[Control of Assets]

[42 U.S.C. 8737]

SEC. 137. (b) The Corporation may acquire control of a synthetic fuel project which, prior to the approval of the comprehensive strategy pursuant to section 126(c), is the subject of financial assistance under this part under the following circumstances:

* * * * *

(5) with respect to projects subject to loans or loan guarantees the Board of Directors determines that the concern is in default or immediately will go into default:

Provided, That the Corporation may not acquire any such control until it has submitted a plan for such acquisition to the President and the President approves such plan and transmits, with respect to such plan, a Corporation synthetic fuel action pursuant to section 128 and such Corporation synthetic fuel action has not yet been disapproved pursuant to such section.

[Construction Projects]

(d) If, after undertaking a Corporation construction project, the Board of Directors determines that the total revised estimated cost of such Corporation construction project will exceed the initial estimated cost specified in the contract pursuant to subsection (c), the Board of Directors may, in its sole discretion, amend, modify, or renegotiate such contract to cover such additional costs; except that, if the revised estimated cost exceeds 175 per centum of the initial estimated cost, the Corporation shall not make such amendment, modification, or renegotiation unless the Corporation has transmitted to the Congress a Corporation synthetic fuel action pursuant to section 128 and such Corporation synthetic fuel action has been disapproved.

* * * * *

WESTERN HEMISPHERE PROJECTS

[42 U.S.C. 8779]

SEC. 179. (a) The Corporation is authorized to transmit a Corporation synthetic fuel action under section 128 relating to an award of financial assistance pursuant to subtitle D for not to exceed two synthetic fuel projects located in the Western Hemisphere outside the United States. If such Corporation synthetic fuel action is not disapproved by either House during the period specified in section 128, the Corporation shall be authorized to award such financial assistance.

22. Nuclear Waste Policy Act of 1982 [Public Law 97-425; 96 Stat. 2201]

A. Repositories for Disposal of High-Level Radioactive Waste and Spent Nuclear Fuel [42 U.S.C. 10135]

REVIEW OF REPOSITORY SITE SELECTION

SEC. 115. (a) DEFINITION.—For purposes of this section, the term "resolution of repository siting approval" means a joint resolution of the Congress, the matter after the resolving clause of which is as follows: "That there hereby is approved the site at .... for a repository, with respect to which a notice of disapproval was submitted by .... on ....". The first blank space in such resolution shall be filled with the name of the geographic location of the proposed site of the repository to which such resolution pertains; the second blank space in such resolution shall be filled with the designation of the State Governor and legislature or Indian tribe governing body submitting the notice of disapproval to which such resolution pertains; and the last blank space in such resolution shall be filled with the date of such submission.

(b) STATE OR INDIAN TRIBE PETITIONS.—The designation of a site as suitable for application for a construction authorization for a repository shall be effective at the end of the 60-day period beginning on the date that the President recommends such site to the Congress under section 114, unless the Governor and the legislature of the State in which such site is located, or the governing body of an Indian tribe on whose reservation such site is located, as the case may be, has submitted to the Congress a notice of disapproval under section 116 or 118. If any such notice of disapproval has been submitted, the designation of such site shall not be effective except as provided under subsection (c).

(c) CONGRESSIONAL REVIEW OF PETITIONS.—If any notice of disapproval of a repository site designation has been submitted to the Congress under section 116 or 118 after a recommendation for approval of such site is made by the President under section 114, such site shall be disapproved unless, during the first period of 90 calendar days of continuous session of the Congress after the date of the receipt by the Congress of such notice of disapproval, the Congress passes a resolution of repository siting approval in accordance with this subsection approving such site, and such resolution thereafter becomes law.

(d) PROCEDURES APPLICABLE TO THE SENATE.—(1) The provisions of this subsection are enacted by the Congress—

* * * * *

(e) PROCEDURES APPLICABLE TO THE HOUSE OF REPRESENTATIVES.—(1) The provisions of this section are enacted by the Congress—

(A) as an exercise of the rulemaking power of the House of Representatives, and as such they are deemed a part of the rules of the House, but applicable only with respect to the procedure to be followed in the House in the case of resolutions of repository siting approval, and such provisions supersede other rules of the House only to the extent that they are inconsistent with such other rules; and

(B) with full recognition of the constitutional right of the House to change the rules (so far as relating to the procedure of the House) at any time, in the same manner and to the same extent as in the case of any other rule of the House.

(2) Resolutions of repository siting approval shall, upon introduction, be immediately referred by the Speaker of the House to the appropriate committee or committees of the House. Any such resolution received from the Senate shall be held at the Speaker's table.

(3) Upon the expiration of 60 days of continuous session after the introduction of the first resolution of repository siting approval with respect to any site, each committee to which such resolution was referred shall be discharged from further consideration of such resolution, and such resolution shall be referred to the appropriate calendar, unless such resolution or an identical resolution was previously reported by each committee to which it was referred.

(4) It shall be in order for the Speaker to recognize a Member favoring a resolution to call up a resolution of repository siting approval after it has been on the appropriate calendar for 5 legislative days. When any such resolution is called up, the House shall proceed to its immediate

consideration and the Speaker shall recognize the Member calling up such resolution and a Member opposed to such resolution for 2 hours of debate in the House, to be equally divided and controlled by such Members. When such time has expired, the previous question shall be considered as ordered on the resolution to adoption without intervening motion. No amendment to any such resolution shall be in order, nor shall it be in order to move to reconsider the vote by which such resolution is agreed to or disagreed to.

(5) If the House receives from the Senate a resolution of repository siting approval with respect to any site, then the following procedures shall apply:

(A) The resolution of the Senate with respect to such site shall not be referred to a committee.

(B) With respect to the resolution of the House with respect to such site—

(i) the procedure with respect to that or other resolutions of the House with respect to such site shall be the same as if no resolution from the Senate with respect to such site had been received; but

(ii) on any vote on final passage of a resolution of the House with respect to such site, a resolution from the Senate with respect to such site where the text is identical shall be automatically substituted for the resolution of the House.

(f) COMPUTATION OF DAYS.—For purposes of this section—

(1) continuity of session of Congress is broken only by an adjournment sine die; and

(2) the days on which either House is not in session because of an adjournment of more than 3 days to a day certain are excluded in the computation of the 90-day period referred to in subsection (c) and the 60-day period referred to in subsections (d) and (e).

B. Interim Storage Program [42 U.S.C. 10157]

SEC. 135. * * *

(6)(A) Upon deciding to provide an aggregate of 300 or more metric tons of storage capacity under subsection (a)(1) at any one site, the Secretary shall notify the Governor and legislature of the State where such site is located, or the governing body of the Indian tribe in whose reservation such site is located, as the case may be, of such decision. During the 60-day period following receipt of notification by the Secretary of his decision to provide an aggregate of 300 or more metric tons of storage capacity at any one site, the Governor or legislature of the State in which such site is located, or the governing body of the affected Indian tribe where such site is located, as the case may be, may disapprove the provision of 300 or more metric tons of storage capacity at the site involved and submit to the Congress a notice of such disapproval. A notice of disapproval shall be considered to be submitted to the Congress on the date of the transmittal of such notice of disapproval to the Speaker of the House and the President pro tempore of the Senate. Such notice of disapproval shall be accompanied by a statement of reasons explaining why the provision of such storage capacity at such site was disapproved by such Governor or legislature or the governing body of such Indian tribe.

(B) Unless otherwise provided by State law, the Governor or legislature of each State shall have authority to submit a notice of disapproval to the Congress under subparagraph (A). In any case in which State law provides for submission of any such notice of disapproval by any other person or entity, any reference in this subtitle to the Governor or legislature of such State shall be considered to refer instead to such other person or entity.

(C) The authority of the Governor and legislature of each State under this paragraph shall not be applicable with respect to any site located on a reservation.

(D) If any notice of disapproval is submitted to the Congress under subparagraph (A), the proposed provision of 300 or more metric tons of storage capacity at the site involved shall be disapproved unless, during the first period of 90 calendar days of continuous session of the Congress following the date of the receipt by the Congress of such notice of disapproval, the Congress passes a resolution approving such proposed provision of storage capacity in accordance with the procedures established in this paragraph and subsections (d) through (f) of section 115 and such resolution thereafter becomes law. For purposes of this paragraph, the term "resolution" means a joint resolution of either House of the Congress, the matter after the resolving clause of which is as follows: "That there hereby is approved the provision of 300 or more metric tons of spent nuclear fuel storage capacity at the site located at ——————————, with respect to which a notice of disapproval was submitted by

——————————————— on ——————————————.”. The first blank space in such resolution shall be filled with the geographic location of the site involved; the second blank space in such resolution shall be filled with the designation of the State Governor and legislature or affected Indian tribe governing body submitting the notice of disapproval involved; and the last blank space in such resolution shall be filled with the date of submission of such notice of disapproval.

(E) For purposes of the consideration of any resolution described in subparagraph (D), each reference in subsections (d) and (e) of section 115 to a resolution of repository siting approval shall be considered to refer to the resolution described in such subparagraph.

c. Monitored Retrievable Storage [42 U.S.C. 10161, 10165, 10166]

SEC. 141. * * *

(b) SUBMISSION OF PROPOSAL BY SECRETARY.—(1) On or before June 1, 1985, the Secretary shall complete a detailed study of the need for and feasibility of, and shall submit to the Congress a proposal for, the construction of one or more monitored retrievable storage facilities for high-level radioactive waste and spent nuclear fuel. Each such facility shall be designed—

(A) to accommodate spent nuclear fuel and high-level radioactive waste resulting from civilian nuclear activities;

(B) to permit continuous monitoring, management, and maintenance of such spent fuel and waste for the foreseeable future;

(C) to provide for the ready retrieval of such spent fuel and waste for further processing or disposal; and

(D) to safely store such spent fuel and waste as long as may be necessary by maintaining such facility through appropriate means, including any required replacement of such facility.

* * * * *

(h) PARTICIPATION OF STATES AND INDIAN TRIBES.—Any facility authorized pursuant to this section shall be subject to the provisions of sections 115, 116(a), 116(b), 116(d), 117, and 118. For purposes of carrying out the provisions of this subsection, any reference in sections 115 through 118 to a repository shall be considered to refer to a monitored retrievable storage facility.

SITE SELECTION

SEC. 145. (a) IN GENERAL.—The Secretary may select the site evaluated under section 144 that the Secretary determines on the basis of available information to be the most suitable for a monitored retrievable storage facility that is an integral part of the system for the disposal of spent nuclear fuel and high-level radio-active waste established under this Act.

* * * * *

NOTICE OF DISAPPROVAL

SEC. 146. (a) IN GENERAL.—The–selection of a site under section 145 shall be effective at the end of the period of 60 calendar days beginning on the date of notification under such subsection, unless the governing body of the Indian tribe on whose reservation such site is located, or, if the site is not on a reservation, the Governor and the legislature of the State in which the site is located, has submitted to Congress a notice of disapproval with respect to such site. If any such notice of disapproval has been submitted under this subsection, the selection of the site under section 145 shall not be effective except as provided under section 115(c).

(b) REFERENCES.—For purposes of carrying out the provisions of this subsection, references in section 115(c) to a repository shall be considered to refer to a monitored retrievable storage facility and references to a notice of disapproval of a repository site designation under section 116(b) or 118(a) shall be considered to refer to a notice of disapproval under this section.

23. Marine Sanctuaries Amendments of 1984
[Public Law 98–498; 98 Stat. 2300]

SEC. 102. Title III of the Marine Protection, Research, and Sanctuaries Act of 1972 (16 U.S.C. 1431 et seq.) is amended to read as follows:

"TITLE III—NATIONAL MARINE SANCTUARIES

* * * * *

"SEC. 304. PROCEDURES FOR DESIGNATION AND IMPLEMENTATION.

* * * * *

"(b) TAKING EFFECT OF DESIGNATIONS.—

"(1) NOTICE.—In designating a national marine sanctuary, the Secretary shall publish in the Federal Register notice of the designation together with final regulations to implement the designation and any other matters required by law, and submit such notice to the Congress. The Secretary shall advise the public of the availability of the final management plan and the final environmental impact statement with respect to such sanctuary. No notice of designation may occur until the expiration of the period for committee action under subsection (a)(6). The designation (and any of its terms not disapproved under this subsection) and regulations shall take effect and become final after the close of a review period of forty-five days of continuous session of Congress beginning on the day on which such notice is published unless—

"(A) the designation or any of its terms is disapproved by enactment of a joint resolution of disapproval described in paragraph (3); or

"(B) in the case of a natural marine sanctuary that is located partially or entirely within the seaward boundary of any State, the Governor affected certifies to the Secretary that the designation or any of its terms is unacceptable, in which case the designation or the unacceptable term shall not take effect in the area of the sanctuary lying within the seaward boundary of the State.

"(2) WITHDRAWAL OF DESIGNATION.—If the Secretary considers that actions taken under paragraph (1) (A) or (B) will affect the designation of a national marine sanctuary in a manner that the goals and objectives of the sanctuary cannot be fulfilled, the Secretary may withdraw the entire designation. If the Secretary does not withdraw the designation, only those terms of the designation not disapproved under paragraph (1)(A) or not certified under paragraph (1)(B) shall take effect.

"(3) **Resolution of disapproval.**—For the purposes of this subsection, the term 'resolution of disapproval' means a joint resolution which states after the resolving clause the following: 'That the Congress disapproves the national marine sanctuary designation entitled that was submitted to Congress by the Secretary of Commerce on .', the first blank space being filled with the title of the designation and the second blank space being filled with the date on which the notice was submitted to Congress. In the event that the disapproval is addressed to one or more terms of the designation, the joint resolution shall state after the resolving clause the following: 'That the Congress approves the national marine sanctuary designation entitled that was submitted to Congress by the Secretary of Commerce on but disapproves the following terms of such designation: .', the first blank space being filled with the title of the designation, the second blank space being filled with the date on which the notice was submitted to Congress, and the third blank space referencing each term of the designation which is disapproved.

"(4) **Procedures.**—

"(A) In computing the forty-five-day periods of continuous session of Congress pursuant to subsection (a)(6) and paragraph (1) of this subsection—

"(i) continuity of session is broken only by an adjournment of Congress sine die; and

"(ii) the days on which either House of Congress is not in session because of an adjournment of more than three days to a day certain are excluded.

"(B) When the committee to which a joint resolution has been referred has reported such a resolution, it shall at any time thereafter be in order to move to proceed to the consideration of the resolution. The motion shall be privileged and shall not be debatable. An amendment to the motion shall not be in order, and it shall not be in order to move to reconsider the vote by which the motion was agreed to or disagreed to.

"(C) This subsection is enacted by Congress as an exercise of the rulemaking power of each House of Congress, respectively, and as such is deemed a part of the rules of each House, respectively, but applicable only with respect to the procedure to be followed in the case of resolutions described in this subsection. This subsection supersedes other rules only to the extent that they are inconsistent therewith, and is enacted with full recognition of the constitutional right of either House to change the rules (so far as those relate to the procedure of that House) at any time, in the same manner, and to the same extent as in the case of any other rule of such House.

24. Comprehensive Anti-Apartheid Act of 1986 [Public Law 99–440; 100 Stat. 1086]

TERMINATION OF CERTAIN PROVISIONS

SEC. 311. (a) This title and sections 501(c) and 504(b) shall terminate if the Government of South Africa—

(1) releases all persons persecuted for their political beliefs or detained unduly without trial and Nelson Mandela from prison;

(2) repeals the state of emergency in effect on the date of enactment of this Act and releases all detainees held under such state of emergency;

(3) unbans democratic political parties and permits the free exercise by South Africans of all races of the right to form political parties, express political opinions, and otherwise participate in the political process;

(4) repeals the Group Areas Act and the Population Registration Act and institutes no other measures with the same purposes; and

(5) agrees to enter into good faith negotiations with truly representative members of the black majority without preconditions.

(b) The President may suspend or modify any of the measures required by this title or section 501(c) or section 504(b) thirty days after he determines, and so reports to the Speaker of the House of Representatives and the chairman of the Committee on Foreign Relations of the Senate, that the Government of South Africa has—

(1) taken the action described in paragraph (1) of subsection (a),

(2) taken three of the four actions listed in paragraphs (2) through (5) of subsection (a), and

(3) made substantial progress toward dismantling the system of apartheid and establishing a nonracial democracy,

unless the Congress enacts within such 30-day period, in accordance with section 602 of this Act, a joint resolution disapproving the determination of the President under this subsection.

* * * * *

SEC. 401. (a)(2) The President shall, not less than 180 days after the date of enactment of this Act, submit to the Congress a report containing—

(A) a description of United States efforts to negotiate multilateral measures to bring about the complete dismantling of apartheid; and

(B) a detailed description of economic and other measures adopted by the other industrialized countries to bring about the complete dismantling of apartheid, including an assessment of the stringency with which such measures are enforced by those countries.

* * * * *

(c) If the President successfully concludes an international agreement described in subsection (b)(1), he may, after such agreement enters into force with respect to the United States, adjust, modify, or otherwise amend the measures imposed under any provision of sections 301 through 310 to conform with such agreement.

(d) Each agreement submitted to the Congress under this subsection shall enter into force with respect to the United States if (and only if)—

(1) the President, not less than 30 days before the day on which he enters into such agreement, notifies the House of Representatives and the Senate of his intention to enter into such an agreement, and promptly thereafter publishes notice of such intention in the Federal Register;

(2) after entering into the agreement, the President transmits to the House of Representatives and to the Senate a document containing a copy of the final legal text of such agreement, together with—

(A) a description of any administrative action proposed to implement such agreement and an explanation as to how the proposed administrative action would change or affect existing law, and

(B) a statement of his reasons as to how the agreement serves the interest of United States foreign policy and as to why the proposed administrative action is required or appropriate to carry out the agreement; and

(3) a joint resolution approving such agreement has been enacted within 30 days of transmittal of such document to the Congress.

* * * * *

SEC. 501. (c) If the President determines that significant progress has not been made by the Government of South Africa in ending the system of apartheid and establishing a nonracial democracy, the President shall include in the report required by subsection (b) a recommendation on which of the following additional measures should be imposed:

(1) a prohibition on the importation of steel from South Africa;

(2) a prohibition on military assistance to those countries that the report required by section 508 identifies as continuing to circumvent the international embargo on arms and military technology to South Africa;

(3) a prohibition on the importation of food, agricultural products, diamonds, and textiles from South Africa;

(4) a prohibition on United States banks accepting, receiving, or holding deposit accounts from South African nationals; and

(5) a prohibition on the importation into the United States of strategic minerals from South Africa.

(d) A joint resolution which would enact part or all of the measures recommended by the President pursuant to subsection (c) shall be considered in accordance with the provisions of section 602 of this Act.

* * * * *

CONGRESSIONAL PRIORITY PROCEDURES

SEC. 602. (a)(1) The provisions of this subsection apply to the consideration in the House of Representatives of a joint resolution under sections 311(b), 401(d), and 501(d).

(2) A joint resolution shall, upon introduction, be referred to the Committee on Foreign Affairs of the House of Representatives.

(3)(A) At any time after the joint resolution placed on the appropriate calendar has been on that calendar for a period of 5 legislative days, it is in order for any Member of the House (after consultation with the Speaker as to the most appropriate time for the consideration of that joint resolution) to move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of that joint resolution. The motion is highly privileged and is in order even though a previous motion to the same effect has been disagreed to. All points of order against the joint resolution under clauses 2 and 6 of Rule XXI of the Rules of the House are waived. If the motion is agreed to, the resolution shall remain the unfinished business of the House until disposed of. A motion to reconsider the vote by which the motion is disagreed to shall not be in order.

(B) Debate on the joint resolution shall not exceed ten hours, which shall be divided equally between a Member favoring and a Member opposing the joint resolution. A motion to limit debate is in order at any time in the House or in the Committee of the Whole and is not debatable.

(C) An amendment to the joint resolution is not in order.

(D) At the conclusion of the debate on the joint resolution, the Committee of the Whole shall rise and report the joint resolution back to the House, and the previous question shall be considered as ordered on the joint resolution to final passage without intervening motion.

(b)(1) The provisions of this subsection apply to the consideration in the Senate of a joint resolution under section 311(b), 401(d), or 501(d).

(2) A joint resolution shall, upon introduction, be referred to the Committee on Foreign Relations of the Senate.

(3) A joint resolution described in this section shall be considered in the Senate in accordance with procedures contained in paragraphs (3) through (7) of section 8066(c)

of the Department of Defense Appropriations Act, 1985 (as contained in Public Law 98-473), except that—

(A) references in such paragraphs to the Committee on Appropriations of the Senate shall be deemed to be references to the Committee on Foreign Relations of the Senate; and

(B) amendments to the joint resolution are in order.

(c) For purposes of this subsection, the term "joint resolution" means only—

(A) in the case of section 311(b), a joint resolution which is introduced in a House of Congress within 3 legislative days after the Congress receives the report described in section 311(b) and for which the matter after the resolving clause reads as follows: "That the Congress, having received on   the report of the President containing the determination required by section 311(b) of the Comprehensive Anti-Apartheid Act of 1986, disapproves of such determination.", with the date of the receipt of the report inserted in the blank;

(B) in the case of section 401(d)(3), a joint resolution which is introduced in a House of Congress within 3 legislative days after the Congress receives the document described in section 401(d)(2) and for which the matter after the resolving clause reads as follows: "That the Congress, having received on   the text of the international agreement described in section 401(d)(3) of the Comprehensive Anti-Apartheid Act of 1986, approves of such agreement.", with the date of the receipt of the text of the agreement inserted in the blank; and

(C) in the case of section 501(d), a joint resolution which is introduced in a House of Congress within 3 legislative days after the Congress receives the determination of the President pursuant to section 501(c) and for which the matter after the resolving clause reads as follows: "That the Congress, having received on   a determination of the President under section 501(c) of the Comprehensive Anti-Apartheid Act of 1986, approves the President's determination.", with the date of the receipt of the determination inserted in the blank.

(d) As used in this section, the term "legislative day" means a day on which the House of Representatives or the Senate is in session, as the case may be.

(e) This section is enacted—

(1) as an exercise of the rulemaking powers of the House of Representatives and the Senate, and as such it is deemed a part of the Rules of the House and the Rules of the Senate, respectively, but applicable only with respect to the procedure to be followed in the House and the Senate in the case of joint resolutions under this section, and it supersedes other rules only to the extent that it is inconsistent with such rules; and

(2) with full recognition of the constitutional right of the House and the Senate to change their rules at any time, in the same manner, and to the same extent as in the case of any other rule of the House or Senate, and of the right of the Committee on Rules of the House of Representatives to report a resolution for the consideration of any measure.

25. Section 481(h), Foreign Assistance Act of 1961 [22 U.S.C. 2291(h)], as amended by Section 4407, Anti-Drug Abuse Act of 1988 [Public Law 100-690]

ANNUAL CERTIFICATION PROCEDURES FOR BILATERAL AND MULTILATERAL ASSISTANCE

(h) ANNUAL CERTIFICATION PROCEDURES.—

(1) WITHHOLDING OF BILATERAL ASSISTANCE AND OPPOSITION TO MULTILATERAL DEVELOPMENT ASSISTANCE.—

(A) Fifty percent of the United States assistance allocated each fiscal year in the report required by section 653(a) for each major illicit drug producing country or major drug-transit country shall be withheld from obligation and expenditure, except as provided in paragraph (2).

(B) The Secretary of the Treasury shall instruct the United States Executive Director of the International Bank for Reconstruction and Development, the United States Executive Director of the International Development Association, the United States Executive Director of the Inter-American Development Bank, and the United States Executive Director of the Asian Development Bank to vote, on and after March 1 of each year, against any loan or other utilization of the funds of their respective institution to or for any major illicit drug producing country or major drug-transit country, except as provided in paragraph (2).

(2) CERTIFICATION PROCEDURE.—

(A) Subject to paragraph (4), the assistance withheld from a country pursuant to paragraph (1)(A) may be obligated and expended, and the requirement of paragraph (1)(B) to vote against multilateral development bank assistance to a country shall not apply, if the President determines and certifies to the Congress, at the time of the submission of the report required by subsection (e), that—

(i) during the previous year the country has cooperated fully with the United States, or has taken adequate steps on its own—

* * * * *

(4) CONGRESSIONAL REVIEW.—Paragraph (1) shall apply without regard to paragraph (2) if, within 45 days of continuous session (within the meaning of section 601(b)(1) of the International Security Assistance and Arms Export Control Act of 1976) after receipt of a certification under paragraph (2), the Congress enacts a joint resolution disapproving the determination of the President contained in such certification.

(5) DENIAL OF ASSISTANCE FOR COUNTRIES DECERTIFIED.—If the President does not make a certification under paragraph (2) with respect to a country or the Congress enacts a joint resolution disapproving such certification, then until such time as the conditions specified in paragraph (6)(A) are satisfied—

(A) funds may not be obligated for United States assistance for that country, and funds previously obligated for United States assistance for that country may not be expended for the purpose of providing assistance for that country; and

(B) the requirement to vote against multilateral development bank assistance pursuant to paragraph (1)(B) shall apply with respect to that country, without regard to the date specified in that paragraph.

(6) RECERTIFICATION.—(A) Paragraph (5) shall apply to a country until—

(i) the President makes a certification under paragraph (2) with respect to that country, and the Congress does not enact a joint resolution under paragraph (4) disapproving the determination of the President contained in that certification; or

(ii) the President submits at any other time a certification of the matters described in paragraph (2) with respect to such country, and the Congress enacts a joint resolution approving the determination of the President contained in that certification.

(B)(i) Any such resolution shall be considered in the Senate in accordance with the provisions of section 601(b) of the International Security Assistance and Arms Export Control Act of 1976.

(ii) For the purpose of expediting the consideration and enactment of a joint resolution under this subsection, a motion to proceed to the consideration of any such joint resolution after it has been reported by the appropriate committee shall be treated as highly privileged in the House of Representatives.

26. Narcotics Control Trade Act [Public Law 99-570, as amended by Public Law 100-690]

"SEC. 802. TARIFF TREATMENT OF PRODUCTS OF UNCOOPERATIVE MAJOR DRUG PRODUCING OR DRUG-TRANSIT COUNTRIES.

"(a) Required Action by President.—Subject to subsection (b), for every major drug producing country and every major drug-transit country, the President shall, on or after March 1, 1987, and March 1 of each succeeding year, to the extent considered necessary by the President to achieve the purposes of this title—

"(1) deny to any or all of the products of that country tariff treatment under the Generalized System of Preferences, the Caribbean Basin Economic Recovery Act, or any other law providing preferential tariff treatment;

"(2) apply to any or all of the dutiable products of that country an additional duty at a rate not to exceed 50 percent ad valorem or the specific rate equivalent;

"(3) apply to one or more duty-free products of that country a duty at a rate not to exceed 50 percent ad valorem; or

"(4) take any combination of the actions described in paragraphs (1), (2), and (3).

"(b) CERTIFICATIONS; CONGRESSIONAL ACTION.—(1) Subsection (a) shall not apply with respect to a country if the President determines and so certifies to the Congress, at the time of the submission of the report required by section 481(e) of the Foreign Assistance Act of 1961, that during the previous year that country has cooperated fully with the United States, or has taken adequate steps on its own, in preventing narcotic and psychotropic drugs and other controlled substances produced or processed, in whole or in part, in such country or transported through such country, from being sold illegally within the jurisdiction of such country to United States Government personnel or their dependents or from being transported, directly or indirectly, into the United States and in preventing and punishing the laundering in that country of drug-related profits or drug-related monies.

* * * * *

"(3) Subsection (a) shall apply to a country without regard to paragraph (1) of this subsection if the Congress enacts, within 45 days of continuous session after receipt of a certification under paragraph (1), a joint resolution disapproving the determination of the President contained in that certification.

"(4) If the President takes action under subsection (a), that action shall remain in effect until—

"(A) the President makes the certification under paragraph (1), a period of 45 days of continuous session of Congress elapses, and during that period the Congress does not enact a joint resolution of disapproval; or

"(B) the President submits at any other time a certification of the matters described in paragraph (1) with respect to that country, a period of 45 days of continuous session of Congress elapses, and during that period the Congress does not enact a joint resolution disapproving the determination contained in that certification.

"(5) For the purpose of expediting the consideration and enactment of joint resolutions under paragraphs (3) and (4)—

"(A) a motion to proceed to the consideration of any such joint resolution after it has been reported by the Committee on Ways and Means shall be treated as highly privileged in the House of Representatives; and

"(B) a motion to proceed to the consideration of any such joint resolution after it has been reported by the Committee on Finance shall be treated as privileged in the Senate."

27. Assistance to the Nicaraguan democratic resistance [Public Laws 99–500; 99–591; 100 Stat. 1783; 100 Stat. 3341]

SEC. 211. (e) On and after February 15, 1987, the restrictions in subsection (b) shall cease to apply and the remaining funds transferred under section 6(a) may be made available for obligation and expenditure for assistance to the Nicaraguan democratic resistance 15 days after the President determines and reports to the Congress that—

(1) the Central American countries have not concluded a comprehensive and effective agreement based on the Contadora Document of Objectives;

(2) the Government of Nicaragua is not engaged in a serious dialog with representatives of all elements of the Nicaraguan democratic opposition, accompanied by a cease-fire and an effective end to the existing constraints on freedom of speech, assembly, religion, and political activity leading to regularly scheduled free and fair elections and the establishment of democratic institutions; and

(3) there is no reasonable prospect of achieving such agreement, dialog, cease-fire, and end to constraints described in paragraphs (1) and (2) through further diplomatic measures, multilateral or bilateral, without additional assistance to the Nicaraguan democratic resistance,

unless the Congress has enacted a joint resolution under section 12 disapproving the provision of additional assistance (other than assistance described in subsection (b)(1) within the limits of funds previously made available).

(f)(1) Notwithstanding subsection (e), no assistance (other than the assistance described in subparagraphs (A) through (C) of subsection (b)(1)) shall be provided at any time to the Nicaraguan democratic resistance under this title if—

(A) the President determines that—

(i) the Central American countries have concluded a comprehensive and effective agreement based on the Contadora Document of Objectives; or

(ii) the Government of Nicaragua is engaging in a serious dialog with representatives of all elements of the Nicaraguan democratic opposition, accompanied by a cease-fire and an effective end to the existing constraints on freedom of speech, assembly, religion, and political activity leading to regularly scheduled free and fair elections and the establishment of democratic institutions; or

(B) the Congress enacts a joint resolution under section 12 disapproving the provision of additional assistance (other than assistance described in subparagraphs (A) through (C) of subsection (b)(1)).

(2) The prohibition contained in paragraph (1) shall not apply—

(A) with respect to assistance described in subparagraph (D) of subsection (b)(1) if the Government of Nicaragua fails to observe an applicable cease-fire; or

(B) with respect to assistance described in subparagraph (E) of subsection (b)(1) if the Government of Nicaragua acquires additional equipment or materiel to carry out air attacks.

CONGRESSIONAL PRIORITY PROCEDURES

SEC. 212. (a)(1) A joint resolution described in subsection (e) of section 11 shall be one without a preamble, the matter after the resolving clause of which is as follows: "That the Congress disapproves the provision of additional assistance to the Nicaraguan democratic resistance pursuant to title of the Military Construction Appropriations Act, 1987, except as provided in section 11(b) thereof within the limits of funds previously made available.".

(2) A joint resolution described in subsection (f)(1)(B) of section 11 shall be one without a preamble, the matter after the resolving clause of which is as follows: "That the Congress disapproves the provision of additional assistance to the Nicaraguan democratic resistance pursuant to

title of the Military Construction Appropriations Act, 1987, except as provided in subparagraphs (A) through (C) of section 11(b)(1) and paragraph (2) of section 11(f) thereof.".

(b) A joint resolution described in subsection (a)(1) or (a)(2) shall be considered in the House of Representatives and in the Senate in accordance with the provisions of paragraphs (3) through (7) of section 8066(c) of the Department of Defense Appropriations Act, 1985 (as contained in Public Law 98-473), except that—

(1) references in such paragraphs to a joint resolution shall be deemed to be references to the respective joint resolution set forth in subsection (a)(1) or subsection (a)(2);

(2) references in such paragraphs to the Committee on Appropriations shall be deemed to be references to the appropriate committee or committees of the respective House of Congress; and

(3) references in such paragraphs to the eighth day and to fifteen calendar days shall be deemed to be references to the fifth day and to five calendar days, respectively.

(c) The provisions of this section are enacted—

(1) as exercises of the rulemaking powers of the House of Representatives and Senate, and as such they are deemed a part of the Rules of the House and the Rules of the Senate, respectively, but applicable only with respect to the procedure to be followed in the House and the Senate in the case of joint resolutions under section 11, and they supersede other rules only to the extent that they are inconsistent with such rules; and

(2) with full recognition of the constitutional right of the House and the Senate to change their rules at any time, in the same manner, and to the same extent as in the case of any other rule of the House or Senate, and of the right of the Committee on Rules of the House of Representatives to report a resolution for the consideration of any measure.

[Paragraphs (3) through (7) of section 8066(c)]

(3) A resolution described in paragraph (1) introduced in the House of Representatives shall be referred to the Committee on Appropriations of the House of Representatives. A resolution described in

paragraph (1) introduced in the Senate shall be referred to the Committee on Appropriations of the Senate. Such a resolution may not be reported before the eighth day after its introduction.

(4) If the committee to which is referred a resolution described in paragraph (1) has not reported such resolution (or an identical resolution) at the end of fifteen calendar days after its introduction, such committee shall be discharged from further consideration of such resolution and such resolution shall be placed on the appropriate calendar of the House involved.

(5)(A) When the committee to which a resolution is referred has reported, or has been deemed to be discharged (under paragraph (4)) from further consideration of, a resolution described in paragraph (1) notwithstanding any rule or precedent of the Senate, including Rule 22, it is at any time thereafter in order (even though a previous motion to the same effect has been disagreed to) for any Member of the respective House to move to proceed to the consideration of the resolution, and all points of order against the resolution (and against consideration of the resolution) are waived. The motion is highly privileged in the House of Representatives and is privileged in the Senate and is not debatable. The motion is not subject to amendment, or to a motion to postpone, or to a motion to proceed to the consideration of other business. A motion to reconsider the vote by which the motion is agreed to or disagreed to shall not be in order. If a motion to proceed to the consideration of the resolution is agreed to, the resolution shall remain the unfinished business of the respective House until disposed of.

(B) Debate on the resolution, and on all debatable motions and appeals in connection therewith, shall be limited to not more than ten hours, which shall be divided equally between those favoring and those opposing the resolution. A motion further to limit debate is in order and not debatable. An amendment to, or a motion to postpone, or a motion to proceed to the consideration of other business, or a motion to recommit the resolution is not in order. A motion to reconsider the vote by which the resolution is agreed to or disagreed to is not in order.

(C) Immediately following the conclusion of the debate on a resolution described in paragraph (1), and a single quorum call at the conclusion of the debate if requested in accordance with the rules of the appropriate House, the vote on final passage of the resolution shall occur.

(D) Appeals from the decisions of the Chair relating to the application of the rules of the Senate or the House of Representatives, as the case may be, to the procedure relating to a resolution described in paragraph (1) shall be decided without debate.

(6) If, before the passage by the Senate of a resolution of the Senate described in paragraph (1), the Senate receives from the House of Representatives a resolution described in paragraph (1), then the following procedures shall apply:

(A) The resolution of the House of Representatives shall not be referred to a committee.

(B) With respect to a resolution described in paragraph (1) of the Senate—

(i) the procedure in the Senate shall be the same as if no resolution had been received from the House; but

(ii) the vote on final passage shall be on the resolution of the House.

(C) Upon disposition of the resolution received from the House, it shall no longer be in order to consider the resolution originated in the Senate.

(7) If the Senate receives from the House of Representatives a resolution described in paragraph (1) after the Senate has disposed of a Senate originated resolution, the action of the Senate with regard to the disposition of the Senate originated resolution shall be deemed to be the action of the Senate with regard to the House originated resolution.

While a motion to proceed to the consideration of a joint resolution under subparagraph (5) is highly privileged, a special order reported from the Committee on Rules pursuant to clause 4(a), Rule XI consistent with the acknowledged right of the Committee on Rules in subparagraph (c)(2) enjoys an even higher privilege (Speaker Wright, Mar. 11, 1987, p. ——).

28. Additional economic assistance for the Central American democracies [Public Laws 99-500; 99-591; 100 Stat. 1783; 100 Stat. 3341]

SEC. 205. (c)(1) The Secretary of State, the Administrator of the Agency for International Development, and the Director of the Office of Management and Budget, shall—

(A) develop a plan for fully funding the assistance to the Central American democracies (Costa Rica, El Salvador, Guatemala, and Honduras) proposed in the January 1984 report of the National Bipartisan Commission on Central America; and

(B) provide a report describing this plan to the President and the Congress no later than March 1, 1987.

REQUESTS FOR ADDITIONAL ASSISTANCE

SEC. 215. The provisions of subsections (s) and (t) of section 722 of the International Security and Development Cooperation Act of 1985 shall apply—

(1) with respect to any request described in section 722(p) of such Act submitted by the President to the Congress on or after the date of enactment of this title, and

(2) with respect to any request by the President for additional economic assistance for the Central American democracies to carry out recommendations contained in the report required by section 5(c)(1)(B) (in which case references to a joint resolution in subsections (s) and (t) of section 722 of such Act shall be deemed to be references to a joint resolution without a preamble, the matter after the resolving clause of which is as follows: "That the Congress approves the additional economic assistance for the Central American democracies that the President requested pursuant to title   of the Military Construction Appropriation Act, 1987."),

except that, for purposes of consideration in a House of Congress of a joint resolution under subsection (s) or (t) of such section, amendments to such a joint resolution may be in order but only if such amendments are germane.

[Subsections (s) and (t) of section 722]

(s) HOUSE PROCEDURES.—(1) The provisions of this subsection apply, during the 99th Congress, to the consideration in the House of Representatives of a joint resolution with respect to the request submitted by the President pursuant to subsection (p).

(2) For purposes of this subsection, the term "joint resolution" means only a joint resolution introduced within 3 legislative days after the Congress receives the request submitted by the President pursuant to subsection (p)—

(A) the matter after the resolving clause of which is as follows: "That the Congress hereby approves the additional authority and assistance for the Nicaraguan democratic resistance that the President requested pursuant to the International Security and Development Cooperation Act of 1985, notwithstanding section 10 of Public Law 91-672.";

(B) which does not have a preamble; and

(C) the title of which is as follows: "Joint Resolution relating to Central America pursuant to the International Security and Development Cooperation Act of 1985.".

(3) A joint resolution shall, upon introduction, be referred to the appropriate committee or committees of the House of Representatives.

(4) If all the committees of the House to which a joint resolution has been referred have not reported the same joint resolution by the end of 15 legislative days after the first joint resolution was introduced, any committee which has not reported the first joint resolution introduced shall be discharged from further consideration of that joint resolution and that joint resolution shall be placed on the appropriate calendar of the House.

(5)(A) At any time after the first joint resolution placed on the appropriate calendar has been on that calendar for a period of 5 legislative days, it is in order for any Member of the House (after consultation with the Speaker as to the most appropriate time for the consideration of that joint resolution) to move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of that joint resolution. The motion is highly privileged and is in order even though a previous motion to the same effect has been disagreed to. All points of order against the joint resolution under clauses 2 and 6 of Rule XXI of the Rules of the

House are waived. If the motion is agreed to, the resolution shall remain the unfinished business of the House until disposed of. A motion to reconsider the vote by which the motion is disagreed to shall not be in order.

(B) Debate on the joint resolution shall not exceed ten hours, which shall be divided equally between a Member favoring and a Member opposing the joint resolution. A motion to limit debate is in order at any time in the House or in the Committee of the Whole and is not debatable.

(C) An amendment to the joint resolution is not in order.

(D) At the conclusion of the debate on the joint resolution, the Committee of the Whole shall rise and report the joint resolution back to the House, and the previous question shall be considered as ordered on the joint resolution to final passage without intervening motion.

(6) As used in this subsection, the term "legislative day" means a day on which the House is in session.

(t) SENATE PROCEDURES.—A joint resolution which is introduced in the Senate within 3 calendar days after the day on which the Congress receives a Presidential request described in subsection (p) and which, if enacted, would grant the President the authority to take any or all of the actions described in subsection (p) shall be considered in accordance with procedures contained in paragraphs (3) through (7) of section 8066(c) of the Department of Defense Appropriations Act, 1985 (as contained in Public Law 98-473), except that—

(1) references in such paragraphs to the Committees on Appropriations of the Senate shall be deemed to be references to the appropriate committee or committees of the Senate; and

(2) amendments to the joint resolution are in order.

(u) CONGRESSIONAL RULEMAKING POWERS.—Subsections (n), (o), (s), and (t) are enacted—

(1) as exercises of the rulemaking powers of the House of Representatives and Senate, and as such they are deemed a part of the Rules of the House and the Rules of the Senate, respectively, but applicable only with respect to the procedure to be followed in the House and the Senate in the case of joint resolutions under this section, and they supersede other rules only to the extent that they are inconsistent with such rules; and

(2) with full recognition of the constitutional right of the House and the Senate to change their rules at any time, in the same manner, and to the same extent as in the case of any other rule of the House or Senate, and of the right of the Committee on Rules of the House of Representatives to report a resolution for the consideration of any measure.

B. RESOLUTIONS TO WHICH NO PRIVILEGE IS ATTACHED BUT WHICH REQUIRE FULL HOUSE AND/OR SENATE ACTION

1. Indian Judgment Claims [Public Law 97-458; 96 Stat. 2512; 25 U.S.C. 1402, 1405]

Joint resolution disapproving plan for distribution of funds to pay judgments to Indian Tribes must be enacted within 60 calendar days of continuous session.

2. Defense Contracts [Public Law 93-155, Sections 807(a)-(d); 87 Stat. 615; 50 U.S.C. 1431]

Resolution of disapproval adopted by either House within 60 calendar days of continuous session disapproving certain defense contracts obligating the United States in excess of $25,000,000.

2a. Defense Production Act Loans and Loan Gurantees for national defense materials and services other than synthetic fuels [Public Law 96-294, Section 104; 50 U.S.C. App. 2091, 2092]

Resolution of disapproval adopted by either House within 60 calendar days of continuous session disapproving obligation of loan guarantees over $38,000,000 or loans to private businesses over $48,000,000.

3. Forest Service activities budget requests [Public Law 93-378; 16 U.S.C. 1606(a)]

Resolution of either House disapproving Statement of Policy within 90 calendar days of continuous session.

4. Amendment to section 54 of the Atomic Energy Act of 1954 [Public Law 93-377; 42 U.S.C. 2074(a); 88 Stat. 472]

Concurrent resolution disapproving foreign distribution of special nuclear material within 60 calendar days of continuous session.

See also section A-7 of this compilation for privileged procedures relating to consideration of joint resolutions disapproving other proposed international distributions of nuclear material and equipment (Public Law 95-242).

5. General Education Provisions; final regulations [20 U.S.C. 1232; Public Law 90-247; Section 431, 84 Stat. 169, as amended]

Concurrent resolution disapproving final regulations within 45 calendar days of continuous session.

5a. Indian Education Regulations [Public Law 95-561, 92 Stat. 2327; 25 U.S.C. 2018]

Concurrent resolution disapproving regulations within 45 days.

5b. Control of Paperwork [Public Law 95-561, 92 Stat. 2338, as amended; 20 U.S.C. 1221-3(e)]

Concurrent resolution disapproving regulations within 60 days.

5c. Defense Dependents' Education [Public Law 95-561, 92 Stat. 2369; 20 U.S.C. 927]

Concurrent resolution disapproving regulations within 45 days.

6. Motor Vehicle Safety Amendments [Public Law 93-492, Section 109(d); 15 U.S.C. 1410b(d)]

Concurrent resolution disapproving federal motor vehicle safety standards within 60 calendar days of continuous session.

7. Termination of Assistance under Foreign Assistance Act of 1961 as amended [22 U.S.C. 2367]

8. Termination of Assistance for Violation of Internationally Recognized Human Rights [22 U.S.C. 2151n]

Concurrent resolution terminating assistance; no time limit.

9. Pennsylvania Avenue Development Corporation [Public Law 92-578, Section 5; 40 U.S.C. 874(d); 86 Stat. 1269]

Resolution of either House disapproving modifications of development plan within 60 legislative days.

10. Export-Import Bank Loans to U.S.S.R. [Public Law 93-646, Section 8; 88 Stat. 2333; 12 U.S.C. 635e(b)]

Concurrent resolution approving loans in excess of $300,000,000 in aggregate.

11. Naval Petroleum Reserves [Public Law 94-258, Section 201; 90 Stat. 303; 10 U.S.C. 7422(c)]

Resolution of either House disapproving continued production from naval petroleum reserve within 90 days.

12. Independent Audit of the District of Columbia Government, approval of plan [Public Law 94-399, Section 2(f); 90 Stat. 1205]

Concurrent resolution disapproving Comptroller General's approval or disapproval of financial plan of the District of Columbia within 45 calendar days of continuous session.

13. Nonnuclear Energy Research and Development: Acquisition of Essential Materials [Public Law 93-577, Section 12; 42 U.S.C. 5911; 88 Stat. 1892]

Resolution of either House disapproving Presidential order relating to supplies within 30 calendar days of continuous session.

14. Export of Goods, Technology or Industrial Techniques Developed by Department of Defense [Public Law 93-365, Section 709; 50 U.S.C. App. 2403-1(c)]

Concurrent resolution disapproving application for export within 60 calendar days of continuous session.

15. Export of Domestic Crude Oil Under Section 28 of the Mineral Leasing Act of 1920 [Public Law 93-153, Section 101; 30 U.S.C. 185(u)]

Concurrent resolution disapproving Presidential findings within 60 calendar days, including 30 legislative days.

15a. Export of Domestic Crude Oil Under Export Administration Act of 1979 [Public Law 96-72, Section 7(d), as amended by Public Law 99-64, Sec. 110(a); 50 App. U.S.C. 2406(d)]

Joint resolution approving export of domestically produced Trans-Alaska Pipeline crude oil within 60 days.

16. Export Controls on Agricultural Commodities [Public Law 96-72; Section 7(g)(3), as amended by Public Law 99-64 Sec. 110(d); 50 U.S.C. App. 2406(g)(3)]

Joint resolution approving imposition of export controls on agricultural commodities within 60 calendar days of continuous session, appropriate committees discharged if not reported within 30 calendar days of continuous session, considered in Senate in accordance with sec. 601(b)(4) of the International Security Assistance and Arms Export Control Act of 1976, in order in House for Committee on Rules to report special order to House providing procedures for immediate consideration (i.e., same authority Rules Committee already possesses under c1.4(a), Rule XI).

17. Deportation of Aliens—Suspension of Deportation [8 U.S.C. 1254; 66 Stat. 214, Section 244, as amended]

Resolution of either House disapproving suspension of deportation of an alien within two sessions of Congress—this procedure was declared invalid in *INS v. Chadha*, 462 U.S. 914 (1983).

18. Arms Export Control Act, Section 3(d)(2)(B) [22 U.S.C. 2753(d)(2)(B)]

Law disapproving, within 15 calendar days, proposed consent to third-country transfer of U.S. military equipment to certain allies. For transfers to other countries, see § 1013(A-13a-1), supra.

19. International Navigation Rules [Public Law 95-75, Section 3; 91 Stat. 308; 33 U.S.C. 1602(d)]

Concurrent resolution disapproving amendments to International Regulations for Preventing Collisions at Sea within 60 days.

20. Loan Guarantees for Alternative Fuel Demonstration Facilities [Public Law 95-238, Section 207(b); 42 U.S.C. 5919(m)]

Concurrent resolution or statute approving guarantee for demonstration facility costing more than $50,000,000 within 90 calendar days of continuous session.

21. International Social Security Agreements [Public Law 95–216, Section 233, as amended by Public Law 98-21, Section 326; 42 U.S.C. 433]

Resolution of either House disapproving Presidential agreement within 60 legislative days.

22. Outer Continental Shelf Lands Act; limitations on exports of oil or gas [Public Law 95–372, Section 208; 43 U.S.C. 1354]

Concurrent resolution disapproving Presidential findings that oil and gas exports are in the national interest within 60 calendar days, including 30 legislative days.

23. Airline Deregulation Act; Employee Protection Program [Public Law 95–504, Section 43(f); 92 Stat. 1705; 49 U.S.C. 1552(f)(3)]

Resolution of either House disapproving final regulations, or a concurrent resolution of approval, within 60 legislative days.

24. Housing and Community Development Act [Public Law 95–557, as amended; 42 U.S.C. 3535(o)]

Joint resolution of disapproval of HUD final regulations within 90 calendar days from date reported or discharged from committee—if reported or discharged in both Houses within 30 calendar days of continuous session.

24a. Solar Energy and Energy Conservation Bank [Public Law 96–294, Sections 505, 506; 12 U.S.C. 3603(a), 3604(e)]

Joint resolution disapproving regulations of Board of Directors of Solar Energy and Energy Conservation Bank as under B–24 above.

25. District of Columbia Retirement Programs [Public Law 96-122, Section 164; D.C. Code § 1-734]

Resolution of either House rejecting report within 30 days of filing.

26. Presidential Actions Adjusting Oil Imports, disapproval of [Public Law 96-223, Section 402; 19 U.S.C. 1862]

Joint resolution disapproving Presidential adjustment of petroleum imports—no time limit; referred to Committee on Ways and Means and not amendable, requirements not waivable by motion or by unanimous consent.

27. Hazardous Substances Releases, Liability, Compensation [Public Law 96-510, Section 305; 42 U.S.C. 9655]

Concurrent resolution disapproving regulation within 90 calendar days of continuous session or within 60 such days if no committee in either House has been discharged or has reported.

28. National Historic Preservation Act [Public Law 96-515, Section 501; 16 U.S.C. 470 W-6]

Concurrent resolution disapproving final regulation within 90 calendar days of continuous session or within 60 such days if no committee has reported or been discharged.

29. Federal Insecticide, Fungicide, and Rodenticide Act [Public Law 96-539, Section 4, as amended by Public Law 100-532, Section 605; 7 U.S.C. 136W(a)(4)]

EPA regulations effective not sooner than 60 days after reported to Congress.

30. Farm Credit Administration Regulations [Public Law 96-592, Section 508; 12 U.S.C. 2252]

Concurrent resolution disapproving regulations within 90 calendar days of continuous session, or within 60 such days if no committee has reported or been discharged.

31. Consumer Product Safety Commission rules and regulations [Public Law 97-35, Section 1207; 96 Stat. 718; 15 U.S.C. 2083]

Concurrent resolution disapproving product safety rule within 90 calendar days of continuous session.

31a. Congressional Veto of Hazardous Substances Regulations [Public Law 97-35, Section 1207(c); 15 U.S.C. 1276]

Concurrent resolution disapproving regulation within 90 calendar days of continuous session.

31b. Congressional Veto of Flammability Regulations [Public Law 97-35, Section 1207(d); 15 U.S.C. 1204]

Concurrent resolution disapproving flammability regulation within 90 calendar days of continuous session.

32. Defense Contract Profit Controls [Public Law 97-86, Section 911; 95 Stat. 1121; 10 U.S.C. 2382]

Concurrent resolution disapproving Presidential regulations to control excess profits within 60 legislative days, or extending effective date of valid regulations for one year.

33. Disposal of Radioactive Wastes in the Ocean [Public Law 97-424, Section 424; 96 Stat. 2165; 33 U.S.C. 1431(b)]

Joint resolution approving EPA permit within 90 days of continuous session.

34. Vocational Rehabilitation Services [Public Law 98-221, Section 111; 29 U.S.C. 730]

Resolution of either House stating that one year automatic extension of authorization of appropriations shall not apply under section 111.

35. Federal Salary Act of 1967 [2 U.S.C. 359, as amended by Public Law 99-190, 99 Stat. 1322]

(e) Section 225(i) of such Act (2 U.S.C. 359) is amended by striking out paragraphs (1) and (2) and inserting in lieu thereof the following:

"(i) EFFECTIVE DATE OF RECOMMENDATIONS OF THE PRESIDENT.—

"(1) The recommendations of the President which are transmitted to the Congress pursuant to subsection (h) of this section shall be effective as provided in paragraph (2) of this subsection unless any such recommendation is disapproved by a joint resolution agreed to by the Congress not later than the last day of the 30-day period which begins on the date on which such recommendations are transmitted to the Congress.

"(2) The effective date of the rate or rates of pay which take effect for an office or position under paragraph (1) of this subsection shall be the first day of the first pay period which begins for such office or position after the end of the 30-day period described in such paragraph.".

[NOTE.—This provision supersedes the Federal Salary Act Amendments of 1977, P.L. 95-19, under which prior statute—the so-called "Bartlett amendment", each House was required to conduct a separate recorded vote on each of the President's recommendations with respect to the offices and positions described in subparagraphs (A), (B), (C), and (D) of subsection f, within sixty calendar days of submission of the recommendations. That statute had superseded sec. 359 of the Federal Salary Act of 1967 under which prior statute the Speaker was not authorized to recognize a Member to call up a bill or resolution specifically disapproving all or part of the President's recommendations as a matter of privilege (Speaker O'Neill, Feb. 16, 1977, p. 2.)]

The President's recommendations must be included in the budget next transmitted by him to the Congress after the date of the submission of the report and recommendations of the Commission on Executive, Legislative, and Judicial Salaries (2 U.S.C. 358), and under sec. 241(a) of the Balanced Budget and Emergency Deficit Control Act of 1985 (P.L. 99-177), the President's Budget must be submitted "on or before the first Monday after January 3 of each year" (31 U.S.C. 1105(a)).

36. Export Administration Act—Expanded Authority to Impose Controls [Public Law 99-64, Section 108(l); 50 U.S.C. App. 2405]

Joint resolution authorizing imposition of export controls, if introduced within 30 calendar days of continuous session after receipt of Presidential determination, appropriate committee discharged if not reported at the end of 30 days after referral (no privileged procedure for consideration in House or Senate).

37. Federal Civil Defense Program Authorizations — Interstate Compacts [Public Law 81-920, Section 201(g); 50 U.S.C. App. 2281]

Concurrent resolution disapproving interstate civil defense compacts within 60 days.

C. PERMANENT COMMITTEE DISAPPROVAL PROCEDURES

1. General Education Provisions Act, approval of schedules for implementation of regulations—20 U.S.C. 1232(b);
2. Watershed Protection and Flood Prevention—16 U.S.C. 1002;
3. Resource Conservation and Development Project Loans—7 U.S.C. 1011;
4. Public Buildings, Property and Works—40 U.S.C. 606 (a), (b), (c);
5. Water Resources Planning—42 U.S.C. 1962d-5(a);
6. Small Projects Reclamation Act of 1956—43 U.S.C. 422d(e);
7. Research and Test Facilities for Traffic Safety—15 U.S.C. 1431;

8. Interim Cellulose Insulation Safety Standards—15 U.S.C. 2082(c)(2)(D);
9. Commodity Futures Trading Commission Fees—7 U.S.C. 16a;
10. Veterans' Medical Facility Acquisitions—38 U.S.C. 5004;
11. Corps of Engineers Projects Deauthorization—33 U.S.C. 579;
12. Reservoir Sedimentation Reduction Program—95 Stat. 1336;
13. Union Station Redevelopment Act—95 Stat. 1670;
14. Bureau of Alcohol, Tobacco and Firearms reorganization or transfer—96 Stat. 189;
15. NASA development of fifth space shuttle orbiter—96 Stat. 1169;
16. Payments to the Neighborhood Reinvestment Corporation—96 Stat. 1172;
17. Federal Aviation Administration reorganization of regional office structure—96 Stat. 1768;
18. NASA restructure tracking and data relay satellite services program—96 Stat. 1913.

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